



Equality Impact Assessment

Introduction

The Home Office routinely carries out Equality Impact Assessments (EIAs) to demonstrate due regard under the Public Sector Equality Duty to the potential impact of its activities on people on the basis of protected characteristics, as defined in the Equality Act 2010.

This EIA sets out at a high level consideration given to the PSED in the development and implementation of policies for the new points-based immigration system. The PSED is an ongoing duty, and consideration is given to the impacts of the immigration system undertaken on an ongoing basis, as well as at particular points of change. This document gives particular emphasis to the potential impacts arising from those aspects of the new system which have been significantly changed and implemented from January 2021, including the ending of free movement, up to the publication of the Autumn Rules in September 2021. This document does not include changes announced in December 2021 such as extending the Shortage Occupation List to include Care Workers and Home Carers, or the extension of the Seasonal Worker visa route.¹ It follows earlier iterations in July and December 2020.

Following publication of this iteration, we will consider how best to maintain transparency alongside accessibility of information as more immigration routes come on stream and the system develops further. The impact of new policies and processes will continue to be kept under review as part of the ongoing PSED.

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

The UK's points-based immigration system

The UK exited the European Union on 31 January 2020. Free movement ended after the end of the transition period on 31 December 2020. This means that, unless protected by the Withdrawal Agreement, EEA citizens and their family members and non-EEA citizens both now require permission to come to the UK, and the Government does not distinguish between nationalities unless there is an objective reason to do so.² On 1 December 2020, the Government instituted a new border and immigration system to serve the UK public and support the economy. EU citizens who arrived before

¹ <https://www.gov.uk/government/news/industry-given-certainty-around-seasonal-workers-but-told-to-focus-on-domestic-workforce>

² For convenience of drafting, the term EEA in this document includes EU citizens, citizens of EEA countries and Swiss citizens

the end of the transition period on 31 December 2020, and relevant family members, were eligible for the EU Settlement Scheme and had until 30 June 2021 to make an application under the scheme. The Scheme remains open beyond 30 June 2021 for eligible family members and for those with reasonable grounds for missing the deadline.³

As noted in the introduction, this Equality Impact Assessment (EIA) sets out the consideration given to the public sector equality duty regarding policy formulation of the points-based system, with a specific focus on impacts arising from those aspects of the system that have significantly changed and begun to be implemented from January 2021. It was originally published in July 2020, and a second iteration incorporating policy developments and taking on board feedback from the advisory groups was published in December 2020. This version has been updated in line with further developments in policy and process – reflecting the addition both of new routes and implications of process and implementation developments, such as eVisas (online immigration status). This is an ongoing process and we will continue to keep the equalities impacts of the new system under review.

Impact of Covid-19

2020 and 2021 have seen widespread disruption as a result of COVID-19. In response the Government put in place a range of measures within the immigration system to support individuals in challenging circumstances arising from COVID-19. Many of these measures have been temporary and have been reviewed and revised in line with the changing situation. It should be noted that this EIA focuses on the UK's points-based immigration system in non-pandemic circumstances, and measures developed in response to wider events will consider any equalities impacts in parallel. We have aimed to use the most up-to-date evidence, recognising that some data may be impacted by the circumstances of COVID-19, such as reduced global mobility.

Points-based system – an overview

The Government is delivering a points-based system. A fundamental aim of the new system is that EEA and non-EEA citizens are treated equally, with the system prioritising the skills a person has to offer, not their citizenship. As the independent Migration Advisory Committee (MAC) has noted: “The problem with free movement is that it leaves migration to the UK solely up to migrants and UK residents have no control over the level and mix of migration. With free movement there can be no guarantee that migration is in the interests of UK residents”.⁴ The new system is open to EEA citizens on the same basis as non-EEA citizens, and individuals need to meet specific criteria to enter the country. The new system provides routes for skilled workers, students and a range of other cohorts, including those aimed at global talent and innovators.

³ [EU Settlement Scheme Caseworker Guidance](#)

⁴ Migration Advisory Committee 2018, [EEA migration report](#)

Ending freedom of movement and introducing the UK's points-based system lays the foundations for our new border and immigration system. The next phase of this programme will be truly transformational for everyone using our systems and crossing the border. We will deliver a fully end-to-end digital experience for the individual, from the way they apply online, how they prove their identity, and how they provide evidence that they meet the relevant criteria, to how they receive and use proof of their status to cross the border and demonstrate entitlements in the UK. We will ensure that support is available for those unable to use online services.

Digitisation of the immigration system

The government has begun a transformation programme which will result in a fully digital end-to-end experience, covering all parts of the customer journey.

The application process is already online. We are building on the experience of those applying to the EU Settlement Scheme by introducing technology which allows applicants to self-enrol their facial biometrics via a personal device (e.g. smartphone or tablet) app to other routes across the immigration system. We are also exploring the remote self-enrolment of fingerprints in the same way. If this technology is proven and can operate at the scale required, this will be rolled out using a phased approach. In the long term, if we can securely enrol and bind individuals to their biometrics remotely, we will look to integrate biometric enrolment and identity verification processes into digital applications which will help reduce significantly the number of occasions customers are required to attend Visa Application Centres.

The government will also implement a suite of changes to transform the way in which we manage people crossing the UK border, improving both security and the clearance of legitimate passengers. As part of our phased delivery to 2025, the UK government has committed to introduce a universal permission to travel requirement which will require everyone wishing to travel to the UK (except British and Irish citizens) to seek permission in advance of travel.

We will introduce an Electronic Travel Authorisation (ETA) scheme to provide an enhanced ability to screen arrivals and block those deemed a threat from travelling to and entering the UK.

As part of the approach to a full digital transformation of the border and immigration system, we are moving from the use by status holders of a physical document to prove their immigration status, usually in the form of a vignette or biometric residence permit (BRP), to a digital system, which provides individuals with online access to their immigration status information (or "eVisa"). Individuals will be able to use online services to view their eVisa and share relevant information about their immigration status and rights in the UK with third parties, instead of providing a physical document. Moving to a fully digital system means replacing different physical documents with a single digital product (eVisa), accessible to the individual via a secure online service

at any point in their journey. The policy is being rolled out incrementally, with the aim of a fully digital eVisa system by the end of 2024.

A full Equalities Impact Assessment (EIA) which considers in more detail the potential impacts and mitigations for the move to online evidence of immigration status (eVisa) will be published in due course.

The digital system will also act as an account, so that should a person wish to apply for another type of entry clearance (visa or entry certificate) or permission to stay in the UK in the future, they can log in and their details will have been saved.

While the long-term aim is for a fully digital system across all routes, including self-enrolment of biometric facial images and fingerprints, running the self-serve and in-person processes in parallel at present gives rise to certain differences in customer experience, including whether the customer receives a digital status or a physical vignette.

The potential impacts on those with protected characteristics of the digitisation of the immigration system, as well as the current differences while the new system is rolled out, are considered in this EIA, although as noted above, we will publish in due course a separate EIA for eVisas (online immigration status) which provides greater detail on this aspect.

Entry routes to the UK

On 1 December 2020 the **Skilled Worker route** opened for applications. The route is employer-led, and all applicants are required to have a job offer from an approved sponsor. The job needs to be at a minimum skill level of RQF3 (A-level or equivalent) and above, and applicants need to meet the English language requirements. The level of English language ability required is set at the appropriate level for each route and is based on the Common European Framework of Reference for Languages. The cap which previously applied to skilled workers has been suspended and the resident labour market test has been removed.

The MAC published its report on salary thresholds and points-based systems on 28 January 2020. The Government accepted the MAC's recommendation to lower the general salary threshold applicable to the Skilled Worker route from £30,000 to £25,600. Migrants still need to be paid the higher of the occupational specific salary threshold and the general salary threshold. There continue to be different arrangements for a small number of occupations where the occupation-specific salary threshold is based on published pay scales, and going rates (but not the general salary threshold) can be pro-rated for different working patterns. In line with MAC recommendations, salary thresholds for new entrants are set 30% lower than the rate for experienced workers in any occupation. New entrants need to be paid the higher of this reduced occupation-specific threshold, or a reduced general threshold of £20,480. To be eligible for these reductions, a new entrant must be under the

age of 26, a recent UK graduate, a recent holder of leave on the new Graduate route, working in a postdoctoral role, or working towards a professional qualification. In addition to these general and occupation-specific thresholds, skilled workers must be paid a minimum hourly rate of £10.10. The minimum hourly rate reinforces the intended effect of the lower general salary threshold of £20,480 by mirroring that threshold for a standard 39 hour working week.

For Skilled Worker applicants, only the base salary or minimum hourly rate (and not the allowances or employer pension contributions) are used to determine whether the salary thresholds are met. There is an exception for Tier 2 workers applying to extend their stay or settle under the new route, who are able to include certain allowances, as they could under the previous route.⁵

Those applying under the Skilled Worker route can trade points gained for specific characteristics against a lower salary. Sponsors are able to pay applicants less than the £25,600 general salary threshold (or the going rate) if they are working in a shortage occupation, if they have a PhD relevant to their job, or if they are a new entrant to the workforce. The Government may in due course extend the list of attributes that will score points and will continue to review and assess the equalities implications as and when changes are made.

There is no limit on the number of years a person can stay under the Skilled Worker route. The salary requirement for those applying for settlement having completed five years under the Skilled Worker route has been revised downwards from £36,200 to the general salary threshold (currently £25,600) or the going rate for the occupation, whichever is higher, subject to the minimum salary floor, or minimum hourly rate, in all cases. Tradeable points discounts to the going rate will not apply at settlement.

The following conditions have been removed from the Skilled Worker route:

- The 12-month 'cooling off' period;
- The requirement to be contracted to work for a minimum of 30 hours for workers in shortage occupations;
- The limit on the number of years a person can stay on the Skilled Worker route.

On 29 September 2020, the MAC published a report recommending changes to the Shortage Occupation List (SOL)⁶. The Government has accepted the recommendations in relation to RQF level 6 occupations and those in the health and care sectors, but decided not to add RQF level 3-5 occupations to the SOL until more data are available on the long-term economic impact of

⁵ With the exception of occupations that have salary thresholds based on public sector pay bands, since within each pay band there is slight variation in pay for each UK region.

⁶ [Corporate reports overview: Review of the shortage occupation list: 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/corporate-reports-overview/review-of-the-shortage-occupation-list-2020)

the COVID-19 pandemic. It also implemented the MAC's recommendations on skilled chefs, deckhands on large fishing vessels (nine metres and above) and vent chick sexers.

In February 2020, we committed to introducing further improvements to the UK's **sponsorship system** once we had implemented the points-based system.⁷ Sponsorship of workers and students remains a core element of the immigration system, ensuring those who most directly benefit from attracting workers and students to the UK play a vital role in maintaining the integrity of the system, which in turn benefits the wider UK.

This programme of improvement to the sponsorship system has three core objectives:

- i. To speed up end-to-end processing, from applying for a sponsor licence to deciding an application;
- ii. To improve a sponsor's experience of using the sponsor system, reducing the burden placed on them to maintain their license and providing functionality and transparency that they have asked for; and
- iii. Preventing abuse of the system, including effective management of immigration risk.

Sponsorship transformation includes the build of a new sponsorship IT system, the rollout of which will be phased up to full delivery in 2024. A sponsorship roadmap outlining the ongoing programme of reform has been published.⁸

Students are covered by the UK points-based system and need to demonstrate that they have an offer from an approved educational institution, speak English and are able to support themselves during their studies in the UK. There is no limit on the number of international students who can come to the UK. Study time limits are no longer being applied to study above degree level.

The new **Graduate route** opened on 1 July 2021 for those who have successfully completed an undergraduate or postgraduate degree or limited number of professional qualifications for professions regulated by law or public authority in the UK and who have extant leave as a Student. Applicants will be subject to identity, security and criminality checks.

The requirements of the route have been designed to streamline the application process, minimising the evidence that applicants must provide. It is an unsponsored route, and eligibility for the route includes those studying part-time. The route does not have a maintenance requirement or an English language requirement as these will have been assessed under their prior application to the Student route, and applicants will be able to sponsor

⁷ [UK points-based immigration system: policy statement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/press-releases/2020/02/2020-02-17-immigration-policy-statement)

⁸ [UK points-based immigration system: sponsorship roadmap - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/immigration-points-based-system-sponsorship-roadmap)

dependants who were already in the UK as their dependants while the sponsoring applicants were students.

The **Global Talent route** facilitates migration of exceptionally talented and promising individuals in the fields of science, humanities, engineering, the arts (including film, fashion design and architecture) and digital technology. An applicant must obtain endorsement from one of six endorsing bodies engaged by the Home Office, prior to making their application for permission to enter or stay in the UK, but if they have received a prestigious prize, they need not rely on endorsement in order to make an application. The relevant prizes have been identified by the Global Talent endorsing bodies.⁹

The **International Sportsperson route** is for an elite sportsperson or qualified sports coach who is both internationally established and can make a significant contribution to the development of sport at the highest level in the UK. A person applying on this route must have a Governing Body Endorsement from an approved Sports Governing Body. Applicants seeking permission for a period of more than 12 months will be required to demonstrate they meet the English language requirement. A dependent partner and dependent children of an International Sportsperson can apply on this route. This is a route to settlement.

Youth Mobility Schemes – and the Youth Professional Scheme, which is part of the Migration Mobility Partnership agreement with India – are routes for people between the ages of 18 and 30 and based on bilateral agreements with specific countries or territories.

Under the current immigration rules, there is a range of other long- and short-term immigration routes including those aimed at innovators, workers in the creative industries, ministers of religion and seasonal workers. The system may also adapt to respond to short-term needs. Recently, this has included temporary changes to the seasonal worker route, to accommodate demand for HGV drivers, poultry workers, and pork butchers.¹⁰

The Government will not implement a dedicated route for employers to recruit at or near to the national minimum wage. The Government will also not be creating a dedicated route for self-employed people, who will continue to be able to enter the UK under the Start-Up and Innovator routes.

Those who wish to visit the UK for up to six months can enter the country under the **visitor route**. This is an existing route that allows people arriving in the UK as visitors to undertake a wide range of activities relating to tourism, business visits and study. Changes to the route include incorporating study in the UK for up to six months, harmonising the visa extension rules for academic visitors and making minor changes to provide more clarity on the

⁹ The endorsing bodies and disciplines they cover are detailed at [Global Talent endorsing bodies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/global-talent-endorsing-bodies)

¹⁰ [Temporary Work - Seasonal Worker visa - GOV.UK \(www.gov.uk\)](https://www.gov.uk/temporary-work-seasonal-worker-visa)

scope of activities that are permitted under the visitor rules. There is no substantive change to the current short-term study eligibility requirements, which have been incorporated within the visitor rules. The main change concerns which immigration route the provisions sit under. The existing dedicated route for short-term study solely on English language courses lasting between six and 11 months remains open as a separate route. EEA nationals can make an application for entry clearance under this route to study such a course at an accredited provider. The requirements of the route itself remain the same and EEA nationals are not subject to any differentiated treatment when assessed as to whether they meet these.

The Government's broad approach from January 2021 is that EEA citizens should avail themselves of these immigration and visa routes that are already open to non-EEA citizens. This includes family and private life routes. From 1 January 2021, the family and private life Immigration Rules apply to anyone wishing to make the UK their permanent home on the basis of their genuine relationships or their continuous residence in the UK.

Requirements

Digitisation of the immigration system

Most EU citizens do not need to attend a Visa Application Centre (VAC) to enrol their biometrics and need instead to provide facial images using personal device self-enrolment. At this stage we will, in most cases, not require EU citizens to enrol their fingerprint biometrics to visit the UK but we are exploring the capability to allow for fingerprint self-enrolment as part of our longer-term vision. Self-enrolment of facial biometrics is also available for those applying to the Graduate route, and for the new visa to enable British National (Overseas) (BN(O)) status holders ordinarily resident in Hong Kong, and their immediate family members, to settle in the UK to live, work and study. It will become available across more routes, including Skilled Worker and Student by the end of 2021.

Non-EU citizens, and some EU citizens applying on specific routes or who are unable to use the self-enrolment option, will need to attend the global network of VACs, or if they are applying in the UK the in-country equivalent, to provide facial and fingerprint biometrics.

In certain cases, previously enrolled biometric information from individuals who make an application for leave may be reused. This means that the individual does not have to travel again to a VAC to enrol their biometrics. Biometric reuse is rolling out on the Graduate route, Skilled Worker and Student through 2021, and applies to non-EEA nationals applying in-country.

Other requirements

There are changes to simplify a number of requirements that feature in a range of immigration routes, which will have an impact across many

immigration routes. As part of the Immigration Rules, most people coming to the UK are required to prove that they can maintain themselves financially. This is to ensure that they can support themselves and their family and will not have to rely on public funds. As part of our simplification of the Rules, financial requirements have been altered across many routes so that they are more coherent, and the application process is simplified for both entrants and decision-makers.

The new requirements are as follows:

1. Applicants will only be required to show funds to meet the financial requirement when applying for entry clearance or if they have been living in the UK for less than a year.
2. The financial requirements on work routes are being revised to better reflect the cost of maintaining and accommodating a family unit in the UK. These have been pegged (pro-rated) to the minimum income requirement in the family routes. This means that individual applicants entering on economic routes will need to show they have at least £1,270 in a suitable bank account for at least 28 days, rather than the current amount of £945. However, a dependant partner will need to show an additional £285, with an extra £315 for their first child and £200 for each additional child, rather than £630 each. Although this is an increase for individuals, applicants with partners and dependents would require less than the current required amount.
3. A-rated sponsors will continue to be able to certify that they will support the migrant and their dependants as an alternative way of meeting the financial requirement.
4. The financial requirement for Students is being updated in line with student loans, to £1,334 inside London and £1,023 outside.

In addition, the criteria for people to be able to switch between migration routes in-country is being relaxed. The previous system limited the ability to switch, and people often had to leave the UK to apply for a change in status. Under the new Immigration Rules we allow switching for long-term work and study routes. This includes the Skilled Worker route, Global Talent, the Student route and Graduate route. However, there is no right to switch in the UK for work or study for those on the following short-term routes:

- Visitor/short-term study;
- Seasonal Workers;
- Parent of a Child Student visa;
- Those with permission outside the Immigration Rules;
- Overseas Domestic Workers.

This maintains the existing policy in relation to these categories. These routes have not been included in the relaxation of the switching restrictions because migrants on these routes are only coming into the UK for a short time and the requirements of the routes include the intention to leave at the end of their stay. That requirement to leave the UK is clear in the rules and guidance, which migrants should have read and be aware of before they decide to apply. Therefore, any indirect discrimination of people with protected characteristics in these categories that could potentially arise would be lawful and justified as it is proportionate to achieving a legitimate aim, to maintain a distinction between the short-term, specific nature of the routes they have applied on and other longer-term or skilled routes.

Criminality

UK rules on criminality apply to newly arriving EEA citizens from 1 January 2021 in the same way as they apply to non-EEA citizens. The criminality rules have also been tightened to provide that a custodial sentence of 12 months or more, in the UK or overseas, will be a mandatory ground for refusal of entry clearance, permission to enter or permission to stay in the UK. This aligns immigration decision-making relating to criminality with the current automatic deportation threshold of 12 months (for UK offences), thus creating consistency across the border, immigration and citizenship system. There are also new rules allowing decisions on a discretionary basis to refuse or cancel permission on the grounds of breaching customs legislation, on the grounds of involvement in a sham marriage and on the grounds of rough sleeping. These changes make it easier for migrants to understand the impact their behaviour will have on their immigration status.

No direct impacts have been found for any of the protected characteristics for these criminality policy changes. There may be indirect discrimination, for example on the basis of sex, as statistics show that the majority of the prison population is male (over 92%),¹¹ as are the majority of rough sleepers (over 85%).¹² Another example would be marriage and civil partnership, where those who have entered into a sham marriage would be affected. However, as criminality or adverse behaviour is the primary identification criteria, any indirect discrimination is not unlawful and can be justified as it is proportionate to achieving a legitimate aim, to maintain the integrity of the immigration system and keep the UK secure.

Changes to individual circumstances

The immigration routes in the new system allow a person to come to the UK if they meet specific requirements. For example, this may include meeting a certain salary threshold or holding a job with a sponsor.

¹¹ [Prison population figures: 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/prison-population-figures-2021)

¹² [Rough sleeping snapshot in England: autumn 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/rough-sleeping-snapshot-in-england-autumn-2020)

There will be occasions where migrants face changes in circumstances which may affect their ability to meet the ongoing immigration requirements. The immigration system has some flexibility in recognition of this and there are long-standing, specific rules for supporting applicants facing changes in life circumstances. These include rules around absence from work and settlement rules. For example, visa holders are permitted to have unpaid time off work (for longer than four weeks) from a list of acceptable reasons for absence, including sickness. This would mean, for instance, that it is still possible within the rules for someone undergoing long-term cancer treatment to be sponsored. Another example is that settlement rules allow someone to exceed the usual 180-day maximum time spent outside the UK if the excess absence was because of life-threatening illness of the applicant or a close family member.

However, if someone on a visa loses their job with their sponsor, the sponsor needs to inform the Home Office, and the migrant's leave will be curtailed. In this situation they will have 60 days, starting from the date the decision to curtail is made, to leave the country or to get permission to stay with a different employer under one of the work routes.

If outcomes for sponsored migrants reflect outcomes for the wider resident UK population, this could indirectly discriminate by age as the youngest (16-24) and oldest (50+) age groups generally have higher redundancy rates than average.¹³ It could also indirectly discriminate by sex as redundancy rates are lower for women than they are for men.¹⁴

Some of the changes to the immigration system provide mitigation in these circumstances. The changes to switching policy mean that a migrant will not need to leave the country to change jobs or switch immigration routes. For example, a person on the Inter-Company Transfer route could now switch to the Skilled Worker route in-country during the 60-day period, whereas previously they would have had to leave the UK to do so. The cooling off period has also been removed meaning that a migrant who has their leave curtailed can reapply straightaway, instead of waiting a year.

However, the Government views it as proportionate and justified that if a migrant on a work route loses their job and is unable to find a new one within the allowed time frames, they will be required to leave the country.

New Plan for Immigration: the Nationality and Borders Bill

In addition to launching the points-based immigration system, the Government has introduced the Nationality and Borders Bill¹⁵.

¹³ [RED02: Redundancies by age, industry and region - Office for National Statistics \(ons.gov.uk\)](#)

¹⁴ [RED01 SA: Redundancies levels and rates \(seasonally adjusted\) - Office for National Statistics \(ons.gov.uk\)](#)

¹⁵ [Nationality and Borders Bill - GOV.UK \(www.gov.uk\)](#)

The bill – and the wider plan – has 3 key objectives:

1. To make the system fairer and more effective so that we can better protect and support those in genuine need of asylum
2. To deter illegal entry into the UK breaking the business model of criminal trafficking networks and saving lives
3. To remove from the UK those with no right to be here.

A separate Equalities Impact Assessment for the Bill has been published on gov.uk¹⁶.

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

This document reflects the main equalities considerations for the key routes in the new points-based system, in particular the provision that will be made for skilled workers and students. In line with the on-going Public Sector Equality Duty, we will continue to consider the impact of the policy and its implementation as they develop.

- The policies and processes outlined in this EIA have been arrived at following:
 - consideration of all the relevant information, including this EIA and the analysis that has been produced in this EIA;
 - engagement with employers of migrants and third sector organisations who interact with migrants;
 - detailed consideration of the operational feasibility of a new immigration system;
 - evidence received from the MAC; and
 - consideration of previous and current EIAs which have been drafted for each different area of policy and process.

References are provided in footnotes for data and evidence used throughout the document. Owing to the impact of COVID-19 on migration, this EIA continues to refer in some instances to internal Home Office data and analysis from the period before March 2020, where patterns of use were more typical.

3. The Public Sector Equality Duty

The Public Sector Equality Duty under s149 of the Equality Act 2010 provides that public authorities must, when exercising their duties, have due regard to the need to:

¹⁶ [The Nationality and Borders Bill: equality impact assessment \(accessible version\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/874247/The_Nationality_and_Borders_Bill_equality_impact_assessment_accessible_version.pdf)

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited by that Act;
- 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.

Under the Equality Act 2010, the nine specified protected characteristics are **age; disability; gender reassignment; pregnancy and maternity; race (including ethnic or national origins, colour or nationality); religion or belief; sex; sexual orientation; and marriage and civil partnership (although this final characteristic is only required to be considered in relation to the first limb of the public sector equality duty).**

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

Schedules 3 and 23 to the Equality Act 2010 permit the authorisation of discrimination in relation to age, nationality, ethnic or national origins, or place or duration of residence in certain circumstances. This includes where the discrimination is authorised by the Immigration Rules.

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.

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

This EIA looks first at the overarching impact of the requirements of the immigration system on EEA citizens following the ending of free movement. It then considers the potential for direct and indirect discrimination in relation to the system as a whole, considering the potential impact to each protected characteristic in turn. For some characteristics there is no evidence, at present, to indicate that the proposal will have differential impacts in relation to that characteristic, but this will be kept under review.

Impact on EEA Citizens

Until the end of 31 December 2020, EEA citizens were able to come to the UK to visit, work, study or join family members under EU Free Movement rules. EEA citizens coming to the UK for the purposes of work and study from 1 January 2021 are therefore the cohort that is likely to feel the biggest impact from the requirements of the new immigration system. This impact flows primarily from the end of free movement on 31 December 2020, following the end of the transition period, whereby EEA citizens no longer have rights under EU law to come to the UK. As such, the Government does not think there is any objective justification for continuing preferential treatment and the Government believes that it is fair and appropriate to impose the same requirements on EEA citizens as on non-EEA citizens wishing to come to the UK.

The agreements the UK has reached with the EU, Switzerland, European Economic Area and European Free Trade Association states mean that citizens of those countries who were resident in the UK before the end of the transition period on 31 December 2020, and their family members, are able to continue to live and work in the UK. Their rights to healthcare, work arrangements and access to benefits continue, and their existing close family members currently living outside the UK are able to join them in future. They have been able to secure these rights by applying to the EU Settlement Scheme (EUSS) before 30 June 2021. The Scheme remains open from 1 July 2021 for eligible joining family members¹⁷; eligible EEA citizens with pre-settled status under the EUSS wishing to attain settled status; and eligible EEA citizens with reasonable grounds for having missed the 30 June 2021 deadline¹⁸. An EIA for the EUSS has been published.¹⁹

EEA, Swiss and non-EEA citizens who are not covered under the agreements described above require permission to come to the UK and the Government will not distinguish between nationalities unless there is an objective reason to do so. This will include entry via visit, work, study, family and other immigration routes.

The most recent data suggests that in the year ending March 2020²⁰ long-term net migration to the UK was 313,000, made up of net inflows of around 316,000 non-EU citizens and 58,000 EU citizens²¹, and a net outflow of 61,000 UK citizens. In the year to March 2020, immigration to the UK by EU citizens was 195,000, while emigration from the UK by EU citizens was 137,000, equivalent to an overall net migration to the UK by EU citizens of +58,000. Immigration of non-EU citizens was 437,000 while emigration was 121,000, giving net migration of non-EU citizens of +316,000.

¹⁷ 'Joining family member of a relevant sponsor' in [Guidance for caseworkers considering applications under the EU Settlement Scheme](#)

¹⁸ 'Reasonable grounds for failing to meet the deadline' in [Guidance for caseworkers considering applications under the EU Settlement Scheme](#)

¹⁹ [EU Settlement Scheme: policy equality statement - GOV.UK \(www.gov.uk\)](#)

²⁰ August 2020 [Migration Statistics Quarterly Report - Office for National Statistics](#)

²¹ Statistics in this section includes Irish citizens but do not include Liechtenstein, Icelandic, Norwegian (i.e. EEA but not EU nations) or Swiss citizens

A person's decision on whether to and where to migrate can be influenced by a wide range of factors, the migration policy of the receiving state being just one of these. It is important to take account of these external factors when assessing the impacts of migration policy.

The Impact Assessment for Changes to the Immigration Rules for Skilled Workers²² assesses the impact of the new Immigration Rules²³ for the Skilled Worker route on long-term EEA work-related migration. It assesses, with several important caveats, that the annual inflows of EEA long-term workers are estimated to reduce around 70 per cent following the impact of the skill threshold and salary threshold; reducing inflows to between 20,000 and 40,000 per year in the first five years of the policy.²⁴ This particular range is an initial assessment of impacts and does not consider potential behavioural responses of firms or the impacts of COVID-19.²⁵ It is estimated around 50 per cent of resident EEA nationals prior to new Immigration Rules for the Skilled Worker route worked within occupations with a skill level below RQF3.²⁶ Long-term inflows to these occupations are not eligible for the Skilled Worker route (but holders of other visas, such as dependants of Skilled Workers, those on family routes or those on the Youth Mobility Scheme will have access to work in the labour market in any occupation).

While the modelled impact on long-term EEA work-related inflows is expected to be substantial, baseline EEA inflows represent a relatively small proportion of the total resident workforce. Shares range from around 0.1 to 1.4 per cent of overall sector workforce depending on the sector considered.²⁷

This impact on EEA citizens is justified. The Government has introduced a skills-led immigration system for both EEA and non-EEA citizens, welcoming individuals based on the skills they offer and how they will contribute to the UK's economy and not their nationality. EEA citizens arriving since the end of freedom of movement are not in a comparable position to those who arrived before the UK left the EU or during the transition period, both in terms of their entitlements and their expectations. They are effectively in the same position as any other citizen wishing to migrate to the UK to work or to study and it is right that there is a single global system that applies to them. This ensures fair and consistent treatment of applicants, whatever their nationality.

²² [Supporting documents for Skilled Worker Immigration Rules - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/supporting-documents/skilled-worker-immigration-rules)

²³ [Statement of changes to the Immigration Rules: HC 813, 22 October 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/statement-of-changes-to-the-immigration-rules-hc-813-22-october-2020)

²⁴ Rounded to the nearest 10,000. Range around projected inflows based on the average predicted error (Root Mean Square Error) of regression. This is a measure of how well the projection predicted historical data points but does not capture all uncertainty. For further detail see the [Technical Annex for the Skilled Worker route](#)

²⁵ However, the impacts of these two factors are analysed separately as sensitivity tests within the Impact Assessment.

²⁶ Home Office analysis of ONS Annual Population Survey 2016-2018.

²⁷ [Impact Assessment for Changes to the Immigration Rules for Skilled Workers](#)

The Government wants to attract talent from across the world to complement the skills already here and to drive the British economy forward, including scientists, innovators, health professionals, construction workers, academics and teachers.

The new skills threshold and salary threshold – and the minimum hourly rate, introduced in the Immigration Rules Changes in March 2021²⁸ – apply equally to both EEA and non-EEA citizens. This represents a change in the thresholds that non-EEA citizens were previously required to meet, as well as a change for EEA citizens who had previously come to the UK to work under freedom of movement rules. Predicting the impact of changing the salary or hourly rate threshold and skills threshold is highly uncertain as it is dependent on employers' behaviour and the potential supply of eligible non-EEA labour, which are unknown. Noting that early usage of the route is likely to have been impacted by COVID-19, we will keep this under review. However, the Impact Assessment for the Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2020 provided a number of illustrative scenarios which suggest an annual increase in non-EEA workers of between 10,000 to 30,000, depending on modelling scenarios.²⁹ The policy may therefore offer greater opportunities to employers looking to source skilled labour from outside the UK and EEA. The characteristics of these migrants are unknown as the pool of eligible non-EEA citizens who meet the requisite skill and salary threshold is unknown.

EEA visitors do not need to apply for a visa (unless they are coming as a marriage and civil partnership visitor³⁰), and they will continue to use e-gates and be granted leave to enter as a non-visa national. As visitors, they may stay in the UK for up to six months to undertake a range of permitted activities, including short-term study. The Impact Assessment for the Immigration and Social Security Co-ordination Bill 2020 looked at the overall impact on EEA visitors. There were over 21 million visits from EEA citizens in the year to September 2019.³¹ Over 15 million visits (over 70 per cent of all visits) by EEA citizens were for holiday, visiting family or friends or other reasons³²; all of which are permitted under the new system. In addition, it is estimated around 95 per cent of visits to the UK by EEA citizens for any reason in the year to September 2019 are for less than 15 days³³; and of all visits to the UK by people from EU countries (not just EU citizens) in 2018 only 0.1 per cent were for longer than six months.³⁴ This indicates a limit on

²⁸ [Statement of changes to the Immigration Rules: HC 1248, 4 March 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/2021/03/04/immigration-rules-changes)

²⁹ [Impact assessment for Immigration and Social Security Co-ordination \(EU Withdrawal\) Bill \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/91424/immigration-and-social-security-co-ordination-bill-2020-ia)

³⁰ [Marriage Visitor visa - GOV.UK \(www.gov.uk\)](https://www.gov.uk/marriage-visitor-visa)

³¹ Data calculated using Visit Britain 'Latest Quarterly Data for UK overall' (based on ONS International Passenger Survey). Data is for the year to September 2019 and covers EEA (excluding Irish and including Swiss) citizens visiting for any reason.

³² See footnote 1 on definition of EEA.

³³ See footnote 23.

³⁴ ONS Travepac 2018 analysis [Travepac: travel to and from the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/travelandmigration/articles/travepac-travel-to-and-from-the-uk)

the duration of stay for EU visitors to six months may have a minimal impact on tourism, or other visits to the UK.

Business visitors are also expected to be largely unaffected by restrictions on the duration of stay. There were an estimated six million business visits by EEA citizens to the UK in the year to September 2019, and, similar to non-business visits, around 98 per cent of these were for less than 15 days.³⁵

From 1 October 2021, EEA citizens may no longer travel to the UK on identity cards and instead need to use passports. The Impact Assessment for Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2020 included indicative analysis to understand what proportion of EEA citizens travel to the UK using passports or identity cards. The analysis suggests that two-thirds of EEA citizens (excluding Irish but including Swiss) previously used passports instead of identity cards.³⁶ However, two important caveats apply to this information:

- The analysis is based on case notes stored within an operational database to identify which ID documents were submitted with residency applications between October 2016 and December 2017, so focuses on EEA citizens who have interacted with the Home Office, which may not apply to the wider EEA population arriving to the UK since December 2017 and in future.
- The analysis assumes EEA citizens who use passports as an identity document for travel will have the same likelihood of using a passport as those EEA citizens and their family members who used it to apply for Permanent Residence or a UK Registration Card while the UK was a member of the EU. Therefore, this may over or under-estimate the likelihood for use of passports as an identity document by EEA citizens when travelling to the UK.

It could be assumed that requiring a passport to travel to the UK is less likely to deter longer-term work or study migrants, but could deter short-term and infrequent visitors who do not have passports, and instead choose to travel to other EEA countries where they are not needed. However, this policy is justified as it brings the requirements for EEA citizens in line with those for non-EEA citizens. The change also enhances border security because EEA identity cards are among the least secure documents seen at the border and are, as a rule, not as secure as corresponding national passports. They have continued to dominate detection figures for document abuse among EEA nationals at the border³⁷. It will also be beneficial for passengers and for

³⁵ See footnote 23.

³⁶ EEA citizens who applied for permanent residency or a registration certificate while the UK was a member of the EU had to supply an ID document to prove their identity. This analysis uses case notes in an operational database to identify which ID documents were submitted with residency applications during October 2016 to December 2017. This analysis estimates the usage of passports and may not reflect passport ownership.

³⁷ Internal Home Office data, to 2020

passenger flows at ports of entry as national identity cards (unlike biometric passports) are not compatible with our e-Gates.

EEA citizens are among the first cohorts to be able to apply for entry to the UK on the new immigration system via the fully digital process. In this regard their experiences will be more streamlined than other cohorts until the rollout applies across the system.³⁸ Citizens who have applied via the EU Settlement Scheme will have obtained access to online evidence of their immigration status, rather than a physical vignette or BRP. In the future, if appropriate, EEA nationals may have to apply for an ETA when the scheme is introduced. The requirement to apply for and obtain an ETA prior to travelling to the UK will broadly be compulsory for those visiting the UK or transiting through the UK who do not currently need a visa for short stays or do not have an immigration status prior to travelling.

Age

Direct discrimination

Skilled Worker Route

The Skilled Worker route is aimed at migrants coming to the UK to take up employment, usually on a full-time basis. It directly discriminates on the basis of age as it only applies to those aged 18 and over, reflecting the majority of existing economic migration routes. Schedule 3 of the Equality Act 2010 permits direct discrimination on the basis of age in relation to the exercise of functions by ministers or other authorised persons under the Immigration Acts. However, we have still considered the justification for such discrimination and the impact on equalities and any mitigations.

This discrimination between those under the age of 18 and those aged 18 and above is justified on the basis of protecting minors from potentially exploitative working conditions. The term 'child' is considered to include anyone under the age of 18. The competent authority guidance, which advises staff in the Single Competent Authority³⁹, notes the added vulnerability of children and acknowledges that it is not possible for a child to give informed consent to potentially exploitative employment conditions. In light of this, restricting these routes to people aged 18 and over is justified and lawful.

Both the visit and short-term study routes place additional evidential requirements upon those aged under 18. This is justified as these requirements are in place to ensure that permission from a parent or guardian is in place for them to travel and that adequate reception and accommodation arrangements are in place. This ensures that we can meet our duty under section 55 of Borders, Citizenship and Immigration Act 2009. Section 55

³⁸ [Other routes open by September 2021 on the fully digital process are the Graduate route and Hong Kong BN\(O\) route.](#)

³⁹ [Victims of modern slavery – Competent Authority Guidance](#)

requires the Home Office to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK.

Some of those arriving under this policy will be able to use ePassport gates; however this is limited by age. Only those aged 12 years and over may use the ePassport gates. This is justified because the faces of children under 12 are still changing and matching is less effective. In addition, 12 to 17-year-olds must be accompanied by an adult if using ePassport gates and unaccompanied 12 to 17-year-olds are directed to the manned Primary Control Point. This is justified as it is to ensure that an officer can be satisfied that the child is travelling with permission from a parent or guardian and that there are no other safeguarding concerns. This is to assist in meeting our child safeguarding duty under section 55 of Borders, Citizenship and Immigration Act 2009.

Students

The route for child students is not open to applicants over the age of 18 and the general student route is only open to applicants over the age of 16. Although there are some differences in the requirements for each of these routes, most of these are to ensure that a sufficient level of safeguarding of children via proposed care arrangements is met. This is in line with various UK legislation around statutory duties of care that applies to schools, carers and parents. There is also a duty for the Secretary of State to safeguard and promote the welfare of children under section 55 of the Borders, Citizenship and Immigration Act 2009.

International Sportsperson

The proposed policy directly discriminates on the basis of age as the route will be restricted to people aged 16 and over. Under s13(2) of the Equality Act 2010, directly discriminating on the basis of age is considered lawful if it is a proportionate means of achieving a legitimate aim. It is considered that restricting the International Sportsperson to individuals aged 16 or over can be justified in the interest of safeguarding the wellbeing of migrant children.

Youth Mobility and Young Professional Schemes

The policies discriminate on the basis of age as the YMS and YPS are only open to applications from 18 to 30-year-olds. However, this reflects the overarching policy objective, which is to facilitate the exchange of young people between the UK and the country with which the agreement has been made.

Requirements

Potential indirect discrimination

Skilled Worker route

The MAC's recommendations on skill and salary levels represent a change in restrictions for non-EEA citizens coming to the UK through the previous Tier 2 (General) route. The policy may therefore offer greater opportunities to employers looking to source skilled labour from outside the UK and EEA. In 2019/20 around 6% of Tier 2 (General) out of country visas issued were aged 24 and under; 69% were aged 25-34; and 24% were aged 35 or over.⁴⁰ As of 1 January 2021, EEA citizens also need to meet the criteria in the Immigration Rules, including the skills and salary thresholds. EEA citizens in the UK tend to be young or of working age. Home Office estimates based on the Annual Population Survey (APS January to December 2019) suggest that just under 20% of the resident population of EEA citizens (excluding Irish citizens) are aged under 16, just under 80% are aged 16-64 and the remainder are aged 65 or over.⁴¹ The skills and salary thresholds may have a particular impact on younger EEA workers and, although they broaden out the route for non-EEA citizens, may continue to have an impact on younger non-EEA workers.

However, the characteristics of future migrants who will be affected by the change in policy restrictions are unknown as the pool of eligible non-EEA citizens who meet the requisite skill and salary threshold is unknown.

Imposing salary thresholds on both non-EEA and EEA citizens may disproportionately affect younger workers, who tend to earn less. Amongst the UK workforce, there is a strong relationship between earnings and age. Annual Survey of Hours and Earnings (ASHE) 2020 data indicates that male and female median full-time gross annual earnings increase with age until reaching the 40-49 age group, where it subsequently begins to decrease. As an example, the ASHE data indicates that UK full-time annual gross pay for the 22-29 age group is £26,096, but this increases by 38% to reach £35,904 for the 40-49 age group.⁴²

Under the Skilled Worker route, the Government has lowered the general salary threshold to £25,600 and in addition to this is applying 30% lower thresholds for new entrants to a lower limit of £20,480, and a minimum hourly pay rate on all applications. The new entrant threshold is based on MAC analysis which considered the median earnings of new entrants (those up to three years after leaving full-time education) relative to overall median earnings.⁴³ These changes are considered proportionate and justified to protect sponsored workers from being unfairly exploited and underpaid by

⁴⁰ Internal Home Office analysis

⁴¹ Home Office analysis of Annual Population Survey January to December 2019.

⁴² [Earnings and hours worked, age group: ASHE Table 6 - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/earnings-and-hours-worked/age-group) Table 6.7a

⁴³ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

sponsors. They will help ensure sponsored workers are paid enough to support themselves, given they will not have access to public funds.

When modelling an RQF3+ skills threshold in combination with these proposed salary thresholds for the Skilled Worker route⁴⁴, Home Office analysis suggests that it could disproportionately affect younger workers, the main group affected being between 20-29. Using APS 2016-2018 data, it was estimated that around 35% of baseline EEA worker inflows under freedom of movement were under the age of 26, but this decreased to around 30% when applying skill and salary thresholds. However, it was estimated that around 75% of EEA worker inflows at the time under freedom of movement were under the age of 35 and this remained so when estimating the impact of the Skilled Worker route thresholds.⁴⁵ These estimates carry considerable uncertainty, as they were based on high-level analysis of the age profile of recent EEA inflows who came to the UK for work-related reasons. Noting that uptake of the route since launch may have been impacted by COVID-19, we will continue to monitor the route and keep the potential impacts under review.

The skill and salary thresholds draw on the MAC report on a points-based system and salary thresholds.⁴⁶ They are necessary elements of the points-based system to ensure that the system is facilitating the migration of skilled workers, that those migrants are treated fairly when they arrive by receiving appropriate wages for their level of work, and that wages of UK residents are protected. The general salary threshold of £25,600 has been set at the 25th percentile of the full-time annual earnings distribution for all eligible occupations drawn from the Annual Survey of Hours and Earnings (ASHE) which is updated annually by the Office for National Statistics, normally at the end of October. The 'going rates' for individual occupations are also based on the 25th percentile of earnings from the ASHE. The £25,600 general salary threshold applies regardless of the number of hours worked, to ensure migrants make a positive net fiscal contribution and are able to support themselves while in the UK. The introduction of a minimum hourly pay rate enhances the protection from exploitation for this group. As well as enforcing minimum hourly pay, it will prevent applicants being forced to work long hours (with no possibility of reducing them) to meet their visa requirements.

In its report, the MAC concluded that "salary thresholds can help ensure that migrants are helping to improve the public finances: of every extra pound in earnings approximately 50p goes to the state, and they can help realise the

⁴⁴ In the modelling the experienced thresholds are set at the highest of the general threshold of £25,600 or the occupation specific threshold set at the 25th percentile. It also includes new entrant thresholds set at 30 per cent below the experienced threshold, to a lower limit of £20,480, except for 24 public sector occupations, where public sector pay bands are used for both experienced and new entrant workers.

⁴⁵ To estimate the age profile of worker inflows, the analysis of 2016-2018 APS data considers the age on arrival of those who say their main reason for migrating to the UK was for work and who arrived in 2012 or later, split by current occupation, using nine major occupation groupings (1-digit SOC codes). For further detail see the [Technical Annex for the Skilled Worker route](#)

⁴⁶ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](#)

ambition of the UK as a high wage, high skill, high productivity economy".⁴⁷ Although setting the salary threshold at the proposed levels may impact on certain age groups, the Government considers it is justified in order to protect the level of wages earned in the UK and to ensure that migrants on work or study routes make a positive fiscal contribution to UK.

Global Talent

Since the Global Talent route opened in February 2020, 26% of applicants have been aged between 20-29, 52% aged 30-39, 16% aged 40-49 and 7% aged 50+. There have been no Global Talent applications for individuals under the age of 20.⁴⁸

As a general proposition, individuals who have won qualifying prizes would be likely to be more experienced and therefore in a higher age range. HOAI analysis shows that the average age of winners across all sectors and prizes is 60, and 59% of prize winners are over 55. Only 7% of prize winners are under 35 years old. However, this is likely to differ significantly based on the type of prize won. The Fields Medal, for example, is awarded to top mathematicians under the age of 40, whereas the average age of a Nobel Prize winner (excluding the Peace Prize) is over 70 years old. Some awards are specifically designed to cover a full career contribution to the relevant field, such as the Lifetime Achievement Grammy Award, and as such the average age will be more skewed to the upper age brackets. This is shown by HOAI analysis, which suggests that the average age for award winners varies across different sectors. For example, 81% of engineering award winners are over 65 and the average age is 76, whereas the average age for TV and film winners is 52.

We will continue to review the demographics of applicants who enter under this route and consider whether an expansion to cover promising applicants, via awards for early career researchers and breakthrough music acts for example, is appropriate.

Sponsorship

There is potential indirect discrimination arising from the rollout of the new sponsorship system. We will prioritise work routes when migrating cohorts to the new system. This will impact students, who are more likely to fall into the 18-24 age bracket. This group will have to wait longer before being migrated to the new system. However, we feel this is justified as the volumes on the student route, and certain student specific features (such as the concept of Educational Oversight, and the yearly Basic Compliance Assessment), mean students' sponsors are likely to benefit from a more mature suite of enhancement for sponsors before migrating them to the new IT services.

⁴⁷ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁴⁸ Internal Home Office data, to 15 June 2021

Institutions will also require significant lead time to ensure that their own local student record systems are compatible with any changes we make.

In the long-term, we are mindful of potential indirect discrimination on the basis of age, of a new IT process, for those users who are older and potentially less digitally literate. The ONS survey of 'Internet users in the UK'⁴⁹ for Q1 2020 found that 54% of adults aged 75 or over were recent internet users. This is an increase on 47% from Q1 2019⁵⁰, but compares with other age groups as follows:

- 65-74 – 86%
- 55-64 – 95%
- 45-54 – 98%
- 16-44 – 99%

This issue is addressed further elsewhere in this document in discussion of the wider implementation of a fully digital immigration system.

International Sportsperson

A person applying on this route must have a Governing Body Endorsement from an appropriate Sports Governing Body (SGB). The criteria agreed by the Home Office with the approved SGBs require the person to have an established international career as a player, coach, or manager. The detailed criteria are tailored to each sport. Between 2018 and 2020, 439 T2 Sportsperson Certificates of Sponsorship were assigned for applicants aged 30 or younger, while 160 were assigned for those aged 31 and over⁵¹. This may reflect the fact that the peak ages for many elite sportspeople and high participation sports (e.g. football) may fall during these years. However, there is no upper age limit on this route and therefore older applicants are permitted to use it if they meet the requirements of the immigration rules. Furthermore, that is not the case for all sports, and the route is also open to managers and coaches who may often be older. People in younger age brackets may be less likely to apply because they are less well established and so do not meet the relevant SGB criteria, but again this will vary from sport to sport and person to person.

Any potential indirect discrimination that arises is justified as a proportionate means of achieving the legitimate policy aim of ensuring all successful applicants on the route are professional sportspersons who are internationally established and able to make a significant contribution to the development of their sport at its highest level. We will keep this under review.

⁴⁹ [Internet users, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

⁵⁰ [Internet users, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

⁵¹ Internal Home Office data

Graduate

Although it is not a requirement of the Graduate route itself that applicants must be a certain age in order to be eligible, they must hold extant leave as a Tier 4 (General) student or Student. The Student route is open to those aged 16 or over. Those wishing to study in the UK under the age of 16 are able to apply for leave as a child student, which will not confer eligibility for the Graduate route. Study at degree level and above that leads to the award of a degree is not permitted on the Child Student route. It is also unlikely that someone under the age of 16 would successfully complete a degree which would otherwise make them eligible for the Graduate route. However children who later go on to successfully complete a qualifying course will at that stage be able to meet the requirements of the route. Overall, it is considered that this can be justified in achieving the legitimate aim of introducing a route that is simple, open to those who completed relevant higher education, and promotes the interest of the UK's HE sector, as the Graduate route is designed to do.

Students

The Student routes are mostly used by those under 30 so any amendments to these routes may disproportionately affect younger adults and children, both EEA and non-EEA citizens. The Higher Education Statistics Agency (HESA) provides data on students at HE level. It found that the total number of international students in HE in the UK has increased by around 26 per cent between 2015/16 and 2019/20⁵², the latest data suggesting around 150,000 EU domiciled⁵³ and 410,000 non-EU domiciled students were enrolled in higher education institutions (HEIs) in the UK.⁵⁴ HESA data (2019-2020)⁵⁵ suggests that, within higher education, the majority of EEA Undergraduates and Postgraduates (taught) are 24 years old or younger. For EEA Postgraduates (research) the majority of students are under 30 years old. If the Government assumes that this is the age profile of future prospective inflows of both EEA and non-EEA citizens who will be impacted from the new rules on student migration, younger age groups are likely to be disproportionately affected. However, this reflects the general trend that people are more likely to study when they are younger, and we do not prevent older students accessing the student route. There is no upper age limit on individuals who wish to study to in the UK, providing they can meet the criteria set out in the Immigration Rules, including that they have an offer from a

⁵² This is rounded to the nearest 5%.

⁵³ EU domiciled students include Irish students. However, they will not be subjected to immigration restrictions under FBIS. Of the individual domicile data that is available on HESA, it indicates that Irish students only account for a small proportion of EU students (around 5%) so it is unlikely to significantly impact the overall results.

⁵⁴ Higher Education Statistics Agency (HESA) 2019/20 [Where do HE students come from? | HESA](#), "HE student enrolments by domicile" Figures may not sum to rounding and are rounded to the nearest 10.

⁵⁵ Home Office analysis of 2019/20 HESA data [Where do HE students come from? | HESA](#)

licensed student sponsor, speak English and are able to support themselves during their studies in the UK.

Visit and short-term study

Those applying for entry under short-term study are more commonly in the younger age brackets. This is thought to be attributable to cultural norms in society, where most education takes place when people are younger. In the 2019-20 academic year, 69% of students enrolling in Higher Education institutions in the UK were aged 24 and under.⁵⁶

There is nothing in the policy which directly favours those who are younger. Indeed, visitors tend to be more evenly distributed in terms of age. It is assumed that moving the short-term study route to visitors will mean that, in line with the current general age cohort of the study route, there may be more younger users of the visit route. However, given the overall numbers that use the visit route, it is not considered that there will be a significant impact on the overall age demographic of the visit route.

Interaction with other immigration routes

Non-EEA citizens are already required to meet the requirements of the immigration routes to work in the UK.

As of January 2021, EEA citizens that do not meet the required skills threshold for the Skilled Worker route or the criteria for other permanent routes must primarily rely on temporary routes that allow work. Temporary Worker routes cater for relatively niche areas of the labour market, including charity, religion, creative and sport. Limiting flows of short-term employment of EEA citizens to Temporary Worker routes may disproportionately affect younger adults. This suggests that, following the end of free movement and opening up of Temporary Worker routes to EEA citizens, volumes of short-term EEA citizen workflows reduce from the baseline. Should short-term EEA citizen workflows reflect the age profile of longer-term EEA migrants, then they may predominantly be younger adults with few dependants.

Separately, there is no designated route for self-employed workers under the new system. Data shows the proportion of self-employed workers increases with age and could imply that older age groups may be disproportionately affected. Annual Population Survey data suggests that around 50% of economically active over 70s are self-employed, compared to around 10% of 20 to 35-year-olds,⁵⁷ and ONS data shows there is a general increase in the levels of self-employed workers in the UK, in particular for those aged 65 and above.⁵⁸

⁵⁶ Higher Education Statistics Agency (HESA) [Figure 5 - HE student enrolments by personal characteristics 2015/16 to 2019/20 | HESA](#)

⁵⁷ Home Office analysis of Annual Population Survey January - December 2019.

⁵⁸ [Trends in self-employment in the UK - Office for National Statistics \(ons.gov.uk\)](#)

The main work routes available require a sponsor to employ a migrant. As there is no designated self-employed route, this may have an impact on older EEA citizens who could be more likely to be subject to discrimination in the recruitment process. Survey data shows that age discrimination is widely considered a problem in the UK and over a third of UK citizens believe age discrimination towards those aged over 55 is commonplace.⁵⁹ Research by Anglia Ruskin University showed that older workers over 50 were 4.2 times less likely to be selected for interview than their 28-year-old counterparts, despite having more experience⁶⁰, and that this bias was more pronounced for women than men⁶¹. There is also research to suggest that older job-seekers find modern methods of recruitment more difficult to navigate.⁶² A survey by the Centre for Ageing Better shows that almost half (48%) of people aged 50-69 think that recruitment methods disadvantage people of their age.⁶³

However, it is unknown what proportion of EEA migrants who came to the UK under the EU's freedom of movement rules were self-employed, may have been able to switch to employed work and thus continue to migrate through the Skilled Worker route. Furthermore, self-employed individuals continue to be able to enter the UK under the Global Talent and Innovator routes and will in due course be able to benefit from the unsponsored route for highly skilled workers.

Requirements

Digitisation of the immigration system

The new end-to-end process is currently rolled out to EEA citizens, Hong Kong BN(O) route applicants and the Graduate route.

Most entry clearance applications are already made online, but we note that this may have a disproportionate impact upon older people who may be less familiar with making online applications.⁶⁴

As noted earlier, the ONS survey of 'Internet users in the UK'⁶⁵ for Q1 2020 found that 54% of adults aged 75 or over were recent internet users. This is

⁵⁹ Government Office for Science (2016) analysis of European Social Survey data [future-of-an-ageing-population.pdf \(publishing.service.gov.uk\)](#)

⁶⁰ House of Commons Women and Equalities Committee (2018) [Older people and employment, Fourth Report of Session 2017-19](#)

⁶¹ Centre for Ageing Better (2018) [Becoming an age-friendly employer: Evidence report](#)

⁶² Equality and Human Rights Commission (2020) [Recruitment of workers into low-paid occupations and industries: an evidence review \(equalityhumanrights.com\)](#)

⁶³ Centre for Ageing Better (2021) ['Too much experience: Older workers' perceptions of ageism in the recruitment process'](#)

⁶⁴ Based on the proportion of applicants in each age group using Assisted Digital Appointments. The data shows that visa and EUSS applicants from older age groups are more likely to use Assisted Digital Appointments than those from younger age groups.

⁶⁵ [Internet users, UK - Office for National Statistics \(ons.gov.uk\)](#)

an increase on 47% from Q1 2019⁶⁶, but compares with other age groups as follows:

- 65-74 – 86%
- 55-64 – 95%
- 45-54 – 98%
- 16-44 – 99%

UKVI allows other people to apply on behalf of applicants and has other systems in place to mitigate these possible issues.

The rollout of technology which allows applicants to remotely self-enrol facial biometrics through a personal device app (e.g. compatible smartphone or tablet) has been expanded to EEA citizens using AUK2 application routes and this will also be available for ETA applicants, when it goes live. It is our ambition to introduce remote self-enrolment of fingerprint biometrics through a personal device app for the new cohorts, who will not previously have been subject to a fingerprint requirement. This will mean we do not need to expand the Visa Application Centre (VAC) network to manage the increase in biometric requirements. Collecting biometrics in this way will make the application process convenient for the customer, while also bringing the security assurance provided by biometrics. However, this may indirectly discriminate on the basis of age given the differences in levels of internet usage and access by age group described above. To mitigate against this, there are mobile supervised enrolment facilities that may be used in exceptional circumstances in the UK where travel would otherwise be a barrier to enrolment. These facilities are not available out of country. On the other hand, removing the need to travel to a VAC may benefit older people who are less mobile. Similarly, the introduction of biometric reuse on certain routes for non-EEA nationals applying in-country will remove the need for some individuals to travel to re-enrol their biometrics, which may benefit older applicants if they are less mobile.

The online nature of the ETA application process may also have an indirect differential impact on older generations wanting to travel to the UK given the differences in levels of internet usage and access by age group. To mitigate this the Government, as it has with all current visa and immigration routes, will ensure that all online forms are tested and designed to ensure, as much as practicable, accessibility for those with literacy and capability restrictions, meeting the Government Digital Service's Accessibility Standards.

The eVisa EIA, to be published in due course, will describe in detail the potential impact and mitigations on people with the protected characteristic of age of the digital immigration status policy.

In other respects, we consider that the potential impacts on the basis of age are a proportionate means of achieving a legitimate aim, for a modern,

⁶⁶ [Internet users, UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandlife/bulletins/internetusersintheuk/2019-01-01)

streamlined and secure immigration system, but along with the rest of the EIA, this will be kept under review.

Other Requirements

In the changes to maintenance requirements there may be indirect impacts on age, given that there is a correlation between age and income. OECD data shows variation in the extent of age gaps in income between countries.⁶⁷ To the extent that there may be indirect discrimination it is considered proportionate to achieve the policy aims of ensuring migrants have sufficient funds to maintain and accommodate themselves while they are not yet earning in the UK.

This is justified because those seeking to establish their life in the UK must do so on a basis that prevents burdens on the State and the UK taxpayer. The public interest in migrants being financially independent and not being a burden on the state is long established and protected by successive governments. No Recourse to Public Funds (NRPF) is a long-standing condition applied to those staying here with temporary immigration status in order to protect public funds and to promote integration. The maintenance requirement is set as a logical consequence of this policy. It is needed to ensure that migrants will not face destitution once they are in the UK. The proposal to peg maintenance funds to a monthly rate based on the minimum income requirement relies on the MAC research into the level of funds that a migrant relies on in order to not need access to public funds.⁶⁸ There is also mitigation in place on some routes where sponsors or endorsing bodies can certify that they will provide maintenance (meaning that the applicant does not need to show they meet the requirement through savings), and for students who can rely on student loans and official financial sponsorship.

Disability

Potential indirect discrimination

Skilled Worker route

An income threshold was already a feature of the Immigration Rules prior to December 2020, and the general salary threshold for the Tier 2 (General) route was set at £30,000. Under the new system, applicants for a Skilled Worker route will usually be required to earn £25,600, or the 'appropriate rate' for their occupation, whichever is higher. As under the previous system, applicants will need to be sponsored by an employer.

The Government is aware that prescribing a minimum salary threshold may have differential impacts on people on the basis of whether they have a

⁶⁷ Age gap data from OECD [Employment database - Earnings and wages - OECD](#)

⁶⁸ MAC [Review of the minimum income requirement for sponsorship under the family migration route](#)

disability. Labour market data shows a disability employment gap, with roughly half of people with disabilities in employment (53.1%) in 2021 compared with just over four out of five people without disabilities (81.3%).⁶⁹ Research by the Equalities and Human Rights Commission suggests that part of this gap could be attributed to discriminatory employment practices.⁷⁰ Internal Home Office analysis found that median annual pay was consistently higher for non-disabled employees than for disabled employees, suggesting that people with a disability may find it disproportionately more difficult to meet the salary threshold. In 2019, median pay for non-disabled non-UK national employees in skilled occupations (RQF 3+) was 17% higher than disabled non-UK employees in skilled occupations. For disabled EEA national employees in skilled occupations, the gap is 12%. For non-EEA citizens, the gap is 35%, a significantly higher difference than their EEA counterparts.⁷¹

The Government has lowered the general salary threshold to £25,600, which will reduce and mitigate the scale of impacts on people with a disability (although will not eliminate it). Both the general and the occupation specific thresholds 'going rates' are set at the 25th percentile of the relevant full-time earnings distribution, as recommended by the MAC.⁷² This means that a migrant needs to be paid at or above the level of the bottom 25% of earners in that category, and that 75% of people in those roles are paid more. Setting the bar at a lower level relative to the full-time earnings distribution reduces the likelihood of the thresholds being a barrier to meeting the requirements of the route. The Government maintains that the salary threshold is an important feature of the Immigration Rules both to protect the level of wages earned in the UK and to ensure that migrants can support themselves and make a positive net contribution to the UK. As such, any indirect discrimination is considered proportionate and justified.

This policy proposal may also indirectly discriminate on the basis of disability as migrants travelling on economic migration routes are not likely to be eligible to access public funds. This may mean that individuals with a disability who rely on public funding to support their daily living may not be able to make full use of some of all immigration routes. The Government believes that this potential indirect discrimination is justified to protect the public finances from migrants travelling to the UK to access state benefits.

Under the previous system those in lower paid occupations were affected more by settlement rules because they had to earn a salary of at least £35,800 to qualify for settlement. If a migrant was earning close to the salary

⁶⁹ [A08: Labour market status of disabled people - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

⁷⁰ Equality and Human Rights Commission (2020) [Recruitment of workers into low-paid occupations and industries: an evidence review \(equalityhumanrights.com\)](https://equalityhumanrights.com)

⁷¹ Internal Home Office analysis of Annual Population Survey January to December 2019. APS is not the primary data source for earnings analysis in the UK – that is ASHE data. APS is self-reported and as such is likely to be subject to a higher degree of recall error. APS also has relatively small sample sizes as earnings questions are asked only to employees and only in 40% of the interviews carried out each quarter. However, APS provides a greater range of personal and household characteristics; making APS more suitable for analysis purposes, in this case, over ASHE.

⁷² [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

threshold at the beginning of their time on the Skilled Worker route, and in an occupation without regular pay progression, this could have been difficult to achieve, potentially having a disproportionate impact on those with a disability who are more likely to be in lower paid occupations. We are addressing this by closely tying the settlement salary requirements to the Skilled Worker route's salary requirements. This means that a worker in a lower paid profession who has been paid the going rate is still able to qualify and would not require a significant increase in their pay to qualify for settlement.

The removal of the six-year rule will mitigate further the issues facing those who still will not meet the revised salary requirements or do not wish to settle permanently by no longer requiring them and their family to switch into another immigration category or leave the UK after six years.

The change to the minimum working hours rule for those on the shortage occupation list will enable more individuals to be able to undertake part-time work and thus reduce the risk of indirectly discriminating against particular groups with protected characteristics who are more likely to work part-time, such as women or individuals with a disability. For example, people who have a disability are more likely to work part-time than those without (34.1% of workers with disabilities compared with 23.1% of workers without disabilities, according to the Annual Population Survey 2019).⁷³ It may be that this change is likely to benefit those in higher earning occupations who are able to pro-rate their going rate whilst still meeting the salary threshold.

In some circumstances the introduction of a minimum hourly pay floor may reduce some of the access to the Skilled Worker route for those occupations paid lower wages and working longer than standard hours. As noted above, within the general population disabled people may both be less likely to be in higher paid job roles and more likely to work part-time – if these findings held within the population of Skilled Worker visa holders the higher tendency to work part-time may dampen the risk of impact from the minimum hourly pay floor.

It is possible those who would otherwise work part-time may be asked to work longer hours than are suitable for them, in order for their sponsors to meet the salary requirement. The minimum hourly pay floor reduces this risk and protects part-time workers from underpayment in a similar way to full-time workers.

We believe that any reduction in access is both justified and balanced by the additional protection from exploitation and removing the downward pressure on wages that this change would bring.

⁷³ [Disability and employment, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-in-work/disability-and-employment)

Global Talent

No impacts have been identified to indicate that those falling within the protected characteristic of disability are particularly affected by the policy changes identified in section 1 above. However, this, along with the rest of the EIA, will be kept under review.

Sponsorship

The design process for the new IT system gives due regard to all aspects of usability and accessibility and will be designed to meet all government requirements in this area. Further user research will be carried out to inform the next stage of system design and build.

Placing our sponsorship system onto a modern, user-friendly platform will benefit all users, removing complexity and speeding up decisions. It is likely these improvements in system accessibility will particular benefit those with a disability who have additional digital needs as, unlike the current system, it will fully comply with accessibility legislation. The new system will enable users with disabilities to participate fully with the sponsorship system.

We will continue to keep the potential impacts of the rollout of the new sponsorship system on those with disabilities under review.

International Sportsperson

Sportspeople with a disability are able to utilise the route in the same way as sportspeople without a disability, providing they meet requirements of the immigration rules, which includes meeting the requirements of the criteria set by the SGBs in order to obtain an endorsement.

There may be some indirect discrimination as there is currently only one SGB listed in the immigration rules that directly provides opportunities for sportspersons who are disabled, Wheelchair Basketball. This is the only SGB for an adaptive sport which has requested inclusion in the Immigration Rules. It is for SGBs to determine whether or not their sport needs to make use of the immigration system, and we will consider any requests made, including from adaptive sports. We will also consider any requests from existing SGBs to include more targeted criteria for sportspeople with a disability where that is needed to facilitate those who otherwise meet the objectives and requirements of the route coming to the UK as international sportspeople. Any indirect discrimination that arises is justified as a proportionate means of achieving the legitimate policy aim of ensuring all successful applicants on the route are internationally established and able to make a significant contribution to the development of their sport at its highest level in the UK.

Graduate

HESA statistics show that 15% of students enrolled at a UK university in 2019/20 identify as having a disability⁷⁴. It is not known if the successful completion rates of international students with a disability whose disability results in different educational needs differs from international students without a disability. The Annual Population Survey 2019 indicates that people with disabilities are 16.2% less likely to obtain a degree than people without disabilities⁷⁵. This data is not specific to international students, and the survey covers anyone resident in the UK. The Graduate route is open to all students who successfully complete their degree or acceptable postgraduate programme. The data may suggest that there could be indirect discrimination on the basis of disability, if people with the protected characteristic of disability are less likely to obtain a degree. We note that UK universities have their own responsibilities to facilitate positive outcomes for those with different educational needs. Additionally, in terms of interaction with other routes, we note that the Student route also allows an individual to carry out re-sits and retakes (subject to a time limit for study at degree level and below). We consider any potential indirect discrimination arising a proportionate means of achieving a legitimate aim, as the policy intention is to retain in the UK people who successfully gain relevant qualifications.

The Graduate route is open to people who have been studying part-time as well as full-time: research carried out by the Higher Education Policy Institute and London Economics on part-time students shows that that adults seeking to study part-time are likely to be from disadvantaged backgrounds, and in particular, are more likely to be white working-class, to be from certain black and minority ethnic backgrounds or to be disabled.⁷⁶ Accordingly there may be benefits to the eligibility criteria for the Graduate route under the PSED, if those undertaking part-time study are more likely to possess one or more protected characteristic.

As with the rest of this EIA we will keep the potential impacts of this policy on those with the protected characteristic of disability under review.

Students

In the UK, people with a disability are less likely to go to university than people without⁷⁷. If this pattern is replicated across other countries, then we may infer that people with a disability are less likely to be students, and apply to the Student route, than people without. However, the route is equally open to those with a disability and those without. As with the Graduate route, we note that UK universities have their own responsibilities to facilitate positive outcomes for those with different educational needs. Additionally, in terms of

⁷⁴ [Figure 5 - HE student enrolments by personal characteristics 2015/16 to 2019/20 | HESA](#)

⁷⁵ [Disability and education, UK - Office for National Statistics \(ons.gov.uk\)](#)

⁷⁶ Higher Education Policy Institute report [Unheard-The-voices-of-part-time-adult-learners.pdf \(hepi.ac.uk\)](#)

⁷⁷ [Low expectations are stopping young disabled people going to university \(theconversation.com\)](#)

- article on The Conversation based on a study in the British Journal of Sociology
<https://onlinelibrary.wiley.com/doi/abs/10.1111/1468-4446.12372>

interaction with other routes, we note that the Student route also allows an individual to carry out re-sits and retakes (subject to a time limit for study at degree level and below). Noting that people with disabilities are more likely to study part-time than full-time⁷⁸, the Student route is open to people who are studying part-time as well as full-time. We consider any potential indirect discrimination arising a proportionate means of achieving a legitimate aim, to provide a route for people wishing to study in the UK to those who have been offered a place on a course by a licensed sponsor. Otherwise, no impacts have been identified to indicate that those falling within the protected characteristic of disability will be particularly affected by the policy changes on students as set out in section 1 above. However, this, along with the rest of the EIA, will be kept under review.

Youth Mobility and Young Professional Schemes

No impacts have been identified to indicate that those falling within the protected characteristic of disability will be particularly affected by the policy changes in Youth Mobility and Young Professional Schemes as set out in section 1 above. However, this, along with the rest of the EIA, will be kept under review.

Visit and short-term study

Whilst we expect that a significant proportion of those arriving under this policy will be able to use ePassport gates, owing to the design of the gates not all those who have some form of disability will be able to use the gates. The physical design of a standard ePassport gate does not allow for users of a wheelchair or those with other disabilities affecting their ability to stand/walk or those whose disabilities relate to sight.

At some ports (Heathrow Terminal 2, Gatwick North Terminal and Brussels) there is a wider ePassport gate which provides for access by wheelchair users/those with a disability which would otherwise limit their ability to stand and/or walk. The Home Office considers the installation of wider accessible gates upon request from ports.

However, whether or not there is a wider ePassport gate does not affect the ability of disabled persons to cross the UK border with ease. Wheelchair users and others with disabilities can access an assisted service at all ports, where they are able to go to the front of the queue, and, where available, use a fast-tracked medical assistance lane.

Interaction with other immigration routes

As set out above, those who are unable to meet the requirements of the Skilled Worker route or other permanent immigration routes but who still wish

⁷⁸ Higher Education Policy Institute report [Unheard-The-voices-of-part-time-adult-learners.pdf](https://hepi.ac.uk/unheard-the-voices-of-part-time-adult-learners.pdf) (hepi.ac.uk)

to work in the UK can rely primarily on temporary work routes, primarily the Temporary Worker routes, which allow work. There could be a new impact on EEA citizens with a disability who would previously have been able to rely on free movement but who do not meet the requirements of these routes. We have not identified any other specific impacts, but will keep this under review.

Requirements

Digitisation of the immigration system

The new end-to-end process is currently rolled out to EEA citizens, Hong Kong BN(O) route applicants and the Graduate route.

Most entry clearance applications are already made online, but we note that this may have a disproportionate impact upon people with disabilities where the nature of their disability makes online applications less accessible than in-person processes. The ONS survey previously referred to of 'Internet users in the UK' for Q1 2020 found that 18% of disabled adults had not recently used the internet. UKVI allows other people to apply on behalf of applicants and has other systems in place such as Assisted Digital Services to mitigate these possible issues.

The digitisation of the application process for ETAs may disadvantage some disabled persons with accessibility needs. To mitigate this the Government, as it has with all current visa and immigration routes, will ensure that all online forms are tested and designed to ensure, as much as practicable, accessibility for those with literacy and capability restrictions, meeting the Government Digital Service's Accessibility Standards.

The rollout of technology which allows applicants to remotely self-enrol facial biometrics through a personal device app (e.g. compatible smartphone or tablet) has been expanded to EEA citizens using AUK2 application routes and this will also be available for ETA applicants, when it goes live. It is our ambition to introduce remote self-enrolment of fingerprint biometrics through a personal device app for the new cohorts, who will not previously have been subject to a fingerprint requirement. This will mean we do not need to expand the Visa Application Centre (VAC) network to manage the increase in biometric requirements. Collecting biometrics in this way will make the application process convenient for the customer, while also bringing the security assurance provided by biometrics. However, this may indirectly discriminate on the basis of disability if the nature of the person's disability makes use of online facilities less accessible than in-person processes. To mitigate against this, there are mobile enrolment facilities that may be used in exceptional circumstances in the UK where travel would otherwise be a barrier to enrolment. These facilities are not available out of country. On the other hand, removing the need to travel to a VAC may benefit people with disabilities who are less mobile and for whom an online process improves accessibility. Similarly, the introduction of biometric reuse on certain routes for non-EEA nationals applying in-country will remove the need for some

individuals to travel to re-enrol their biometrics, which may benefit people with certain disabilities.

The eVisa EIA, to be published in due course, will describe in detail the potential impact and mitigations on people with the protected characteristics of disability of the policy for online immigration status.

In other respects, we consider that the potential impacts on the basis of disability are a proportionate means of achieving a legitimate aim, for a modern, streamlined and secure immigration system, but along with the rest of the EIA, this will be kept under review.

Other requirements

The changes to maintenance requirements may have an indirect impact on disability. There is a disability pay gap in the UK, and this pattern is likely to be seen internationally, although a World Health Organisation report in 2011 concluded that more research needed to be done in developing countries.⁷⁹ To the extent that there may be indirect discrimination it is considered proportionate to achieve the policy aims of ensuring migrants have sufficient funds to maintain and accommodate themselves while they are not yet earning in the UK.

The relaxation of the switching requirements should benefit disabled migrants, who might find international travel difficult because of their condition, as they are less likely to need to leave the country to change immigration routes.

Gender Reassignment

No impacts have been identified that would indicate that those falling within the protected characteristic of gender reassignment will be particularly affected by the policy changes set out in section 1 above. However, this, along with the rest of the EIA will be kept under review.

Marriage and Civil Partnership

Points-based system

The points-based system is open to EEA citizens on the same basis as non-EEA citizens. It caters for skilled workers, students and a range of other routes including those aimed at global talent and innovators. If an individual is dependent on a main applicant, they will need to qualify via a dependent visa, the family route, or on their own study or work visa.

Non-EEA citizens, including those who are married or who are in a civil partnership, may apply to come to the UK under the UK's points-based immigration system, as long as they meet the requirements for their chosen

⁷⁹ World Health Organisation and World Bank [World report on disability \(who.int\)](https://www.who.int/publications/m/item/world-report-on-disability)

route. These rules now also apply to EEA citizens arriving as of January 2021 under the new points-based system. This represents a change for those who would, if they had arrived before the end of 31 December 2020, be exercising free movement rights, and may mean more stringent criteria apply that would have been the case if they chose to exercise those rights. However, the Government considers this is justified on the basis that it is fair and appropriate to have a single global system that is applied consistently to all nationalities. Separate arrangements are available for those eligible for the EU Settlement Scheme.

No other specific impacts on the basis of the protected characteristics of marriage and civil partnership have been identified but this will be kept under review.

Pregnancy and Maternity

Skilled Worker route

The salary requirement for the Skilled Worker route could have an impact on those who are pregnant or who are on maternity leave. Those on maternity leave will not usually receive full pay. This could impact their earnings and their ability to meet the salary threshold requirement. While pay reductions during maternity leave itself are provided for, there is no current allowance for phased return or reduced hours.

The MAC has looked at part-time workers. In its January 2020 report on a points-based system and salary thresholds, the MAC recommended not adjusting general threshold levels to accommodate part-time working.⁸⁰ It suggested that adapting the system in this way could result in increased abuse and that where part-time earnings are high enough to meet the full-time threshold, migrants will still be able to enter the UK and work. However, the Government is keeping its policy on thresholds for those returning from maternity leave under review.

The Government has lowered the general salary threshold to £25,600, which reduces the scale of the differential impact (although will not completely eliminate it). Going rates for individual occupations may be pro-rated; it is only the general threshold which may not.

The Government believes that the salary threshold is an important feature of the Immigration Rules, for several reasons: as a proxy for the skill level of a job, to prevent employers seeing migrant workers as a source of cheaper labour, to protect the level of wages earned in the UK and to ensure that migrants can support themselves and make a positive net contribution to the UK.

⁸⁰ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/854212/a-points-based-system-and-salary-thresholds-for-immigration-report.pdf)

Global Talent

No impacts have been identified to indicate that those falling within the protected characteristic of pregnancy and maternity are particularly affected by the policy changes identified in section 1 above. However, this, along with the rest of the EIA, will be kept under review.

Sponsorship

No impacts have been identified to indicate that those falling within the protected characteristic of pregnancy and maternity are particularly affected by the policy changes identified in section 1 above. However, this, along with the rest of the EIA, will be kept under review.

International Sportsperson

Some SGBs require sportspeople to have played a certain percentage of games over a defined period of time. We have been routinely adapting the endorsement criteria for each SGB, adding in a clause to each criteria stating any period of pregnancy or maternity/ paternity leave which prevents a sportsperson's participation in their field will be considered on a case by case basis by the relevant SGB. Where criteria have not yet been updated, we will work with the SGB to ensure that they can also make any relevant adjustments for a person who cannot meet the normal criteria because of a period of maternity or paternity leave.

There is no evidence to suggest that the proposed policy will otherwise result in indirect discrimination based on the protected characteristic of pregnancy and maternity. However, we will keep this under review and if an impact arises this will be noted.

Graduate

We consider there may be indirect discrimination with regard to pregnancy and maternity if, as per the policy for the Graduate route, new dependents (i.e. dependents that were not already in the UK as the applicant's dependent whilst the applicant was a student) are not permitted to be registered. The Home Office is carrying out a wider project around the ability to sponsor new dependants in the case of children born in the UK and this policy will be reviewed as a part of that ongoing work.

Students

No impacts have been identified that would indicate that those falling within the protected characteristic of pregnancy and maternity will be particularly affected by the policy changes on students as set out in section 1 above, but this will be kept under review.

Youth Mobility and Youth Partnership Schemes

These policies may indirectly discriminate against people on the basis of the protected characteristic of pregnancy and maternity because dependants are prohibited on these routes. Further, policies provide that the applicant must not have any children aged under 18 who are either living with them or financially dependent upon them. The overarching policy is that a person is not sponsored by an employer or educational institution and are therefore not required to contribute economically. There are very few limits on what they can do whilst they are in the UK. If a person was allowed to bring dependants, it would require a fundamental change to the overarching policy because they would require financial support and possibly a form of sponsorship.

Requirements

Digitisation of the immigration system

The Equality Act 2010 states that pregnancy and maternity is a protected characteristic only in relation to direct discrimination, not indirect. However, we have considered that there may be indirect impacts on people with the protected characteristic of pregnancy and maternity as a result of the current differences between those with access to routes which are already fully digital (EEA, BN(O) and Graduate) and those which have yet to be transformed or rolled out to all nationalities. Where applicants are applying on routes which still require them to attend a VAC in person, or they are unable to use an ePassport gate, this may be more challenging for someone with the protected characteristic of pregnancy or maternity owing to associated mobility issues. We do not consider the impacts disproportionate to the legitimate aims of the digitisation of the immigration system. On the other hand, removing the need to travel to a VAC and providing instead for the self-enrolment of biometrics may benefit people with the protected characteristic of pregnancy or maternity if they are less mobile, where the online process improves accessibility. Similarly, the introduction of biometric reuse on certain routes for non-EEA nationals applying in-country will remove the need for some individuals to travel to re-enrol their biometrics, which may benefit people with the protected characteristic of pregnancy or maternity.

No other impacts have been identified that would indicate that those falling within the protected characteristic of pregnancy and maternity will be particularly affected by the policy changes on digitisation of the immigration system as set out in section 1 above but this will be kept under review.

Interaction with other routes

There is no designated route for the self-employed under the new system. Research by Citizens Advice in 2015 found that over a 10-year period from 2004-05 to 2014-15 'self-employment has become more female and more part-time'.⁸¹ Self-employment may offer more flexibility to parents with small

⁸¹ Citizens Advice and the New Policy Institute [Whoaretheselfemployed.pdf \(citizensadvice.org.uk\)](http://www.citizensadvice.org.uk/whoaretheselfemployed.pdf)

children. However, it could also be because of prejudices in the recruitment process. In 2018 research into the experiences of employers and mothers found that 59% of employers agree that a woman should have to disclose she is pregnant during interview and 41% agreed that pregnancy in the workplace puts an unnecessary cost burden on the workplace.⁸² A 2020 survey by the Trade Unions Congress found that one in four pregnant women and new mums have experienced discrimination or unfair treatment at work, including being singled out for redundancy or furlough during COVID-19.⁸³ However, self-employed individuals may continue to be able to enter the UK under the Global Talent and Innovator routes and will in due course be able to benefit from the proposed unsponsored route for highly skilled workers. The Government is also committed to tackling pregnancy discrimination in the workplace more broadly across the UK labour market.⁸⁴

Other requirements

The relaxation of the rules on switching could be a positive change for pregnant migrants who may find overseas travel a barrier during pregnancy, as they are less likely to need to travel abroad to change immigration routes.

Race (including ethnic or national origins, colour or nationality)

Direct discrimination

By creating a single system, where EEA citizens are largely subject to UK immigration control in the same way as non-EEA citizens, the Government is promoting equality of nationalities within the points-based system.

However, as was the case in the previous system, the Government continues to authorise direct discrimination on the grounds of nationality in three ways as a necessary and justified part of the system:

1. Irish citizens will continue to be treated differently from other nationalities;
2. Distinctions will sometimes be made between nationalities on the basis of international agreements; and
3. Distinctions will sometimes be made between nationalities on the basis of objective evidence about compliance and security risk.

Schedules 3 and 23 of the Equality Act 2010 permit direct discrimination on the basis of nationality, ethnic or national origins, place of ordinary residence and duration of presence or residence in relation to the exercise of functions by ministers or other authorised persons under the Immigration Acts. We have nevertheless considered the justification for that discrimination.

⁸² [Pregnancy and maternity discrimination research findings | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/en/pregnancy-and-maternity-discrimination-research-findings)

⁸³ [Pregnant and precarious: new and expectant mums' experiences of work during Covid-19 | TUC](https://www.tuc.org.uk/news/2020/07/2020-07-20-pregnant-and-precarious-new-and-expectant-mums-experiences-of-work-during-covid-19)

⁸⁴ [Pregnancy and maternity discrimination: extending redundancy protection for women and new parents \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/86444/pregnancy-and-maternity-discrimination-extending-redundancy-protection-for-women-and-new-parents.pdf)

Irish citizens

The number of Irish citizens residing in the UK is estimated at around 0.3m⁸⁵. The rights of Irish citizens in the UK are protected given the longstanding historical and political context which means that Ireland and the UK have a unique relationship. These rights are rooted in existing legislation (the Ireland Act 1949) and as provided for by the Belfast ('Good Friday') Agreement. The rights of Irish citizens to work, study, and reside in the UK without requiring immigration permission, except in very limited circumstances, will continue. This is provided for in s.3ZA of the Immigration Act 1971. As such, those Irish citizens who do not require permission to enter and remain in the UK are not eligible to apply for permission under the UK's points-based system.

International agreements

As part of our negotiations with trading partners, the Government may agree specific provisions on mobility that will result in citizens of those countries being treated differently from others. These include Youth Mobility and Young Professional Schemes as described below.

Youth Mobility and Youth Partnership Schemes

These policies constitute bespoke arrangements to facilitate the mobility of young people from the UK and the country with which the agreement has been made to each other's countries. Since this arrangement will only be available to UK nationals and those of the relevant third country, it directly discriminates on the basis of nationality. This is considered a proportionate means of achieving a legitimate aim – supporting bilateral relationships and providing opportunities for young people from the UK and overseas – and will in each case be set out in the Immigration Rules.

Risk assessment of nationalities

Some proposed policies might apply only to some nationalities on the basis of risk. These policies include, but might not be limited to, allowing access to e-gates, visa regimes, in-country switching and reduced documentary requirements for students. These could apply to low-risk nationalities either if the Government decides to implement these unilaterally (in which case they could be reconsidered at any time) or as part of reciprocal binding commitments within an international agreement.

The immigration system already differentiates by nationality, authorised by the Equality Act 2010. This includes through visa regimes, visa waivers, ministerial authorisations, and the differential evidence requirement (setting out the different levels of evidence that students must submit, based on their nationality).

⁸⁵ [Population of the UK by country of birth and nationality - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-population/immigration-and-migration/population-by-country-of-birth-and-nationality)

The Home Office uses objective evidence to differentiate by risk. Decisions on whether a country's citizens are deemed low-risk or not are made considering a wide range of factors using both open source and internal data. This can include, but is not restricted to, data relating to security issues, criminality issues, compliance with the UK's immigration system, and the ability to return a country's citizens. The differentiation based on nationalities is therefore justified by security and immigration risk-based assessments of the relative risk that a country's citizens pose to the UK's border and national security. The level of discrimination is in turn justified and reasonable.

Ultimately, the aim is to mitigate this by moving to a more person-centric system, whereby the level of individual risk that a migrant would be perceived to pose to the UK would depend on a range of factors, including past compliance and nationality.

Requirements

Digitisation of the Immigration system

The fully digital system, providing for remote self-enrolment of facial biometrics and online immigration status, is currently available to EEA applicants, and those applying on the BN(O) and Graduate routes. The rollout of access to eVisas (or online immigration status) for the EUSS and for EEA nationals under some PBS routes is covered in a previous PES and EIA. A Ministerial Arrangement came into force on 18 November 2020. There is a separate EIA for the Hong Kong BN(O) routes and a Ministerial Arrangement covering direct discrimination on the basis of nationality was made on 27 January 2021.

Although the future implementation of the eVisa policy will not be based on nationality, the difference in treatment between visa and non-visa nationals does constitute direct discrimination on grounds of race. A Ministerial Arrangement in respect of this will be sought before Phase 2 of the eVisa rollout is implemented. The full EIA for eVisas will be published in due course.

It is anticipated that there will be a meaningful differential impact on the grounds of nationality arising from the ETA policy. The requirement to apply for and obtain an ETA prior to travelling to the UK will broadly apply to non-visa nationals visiting the UK or transiting through the UK who do not currently need a visa for short stays or do not have an immigration status prior to travelling.

Therefore, the primary determining factor in deciding whether an individual requires an ETA prior to travelling is nationality, which constitutes direct discrimination. However, we consider this direct discrimination to be lawful

because it is being done in the exercise of immigration functions and will be set out in the Immigration Rules.

Moreover, this approach is considered to be proportionate, rational, fair and reasonable because it is based on the existing framework underpinning immigration control in the UK (the Immigration Rules), which distinguishes fundamentally between visa and non-visa nationals, as provided for by the visa national list set out in Appendix 2 to Appendix V of the Immigration Rules.

Furthermore, it is considered that the ETA proposals will in fact reduce direct discrimination overall based on nationality, as the introduction of the ETA scheme will now require all third-country nationals to apply for and obtain permission to travel (in the form of a visa or an ETA) to the UK prior to their journey.

Differential evidence requirement

Citizens of countries listed under the differential evidence requirement in the Immigration Rules, or who hold a passport from a relevant competent authority, are subject to reduced documentary requirements when applying under the Student route. EEA citizens remain included in this list notwithstanding other changes arising from the UK's exit from the EU. Discrimination is limited to only a reduced requirement for documentation to be submitted in respect of applicants from those countries. All applicants still need to meet the full requirements of the route and we can request the full documentation if required. Furthermore, a random sample of applicants are automatically asked to provide all documents as part of the application process.

Assessing which citizens should be included in the differential evidence requirement

The selection of countries to be included is based on an objective risk-based method.

Countries with fewer than 100 Student or Child Student (including Tier 4) applicants in the 12-month period reviewed have been excluded from inclusion in the differential evidence requirement. This is because any country with a low number of applicants does not have a statistically relevant pool of applicants which can be used to assess whether they present a low risk.

We believe that it is reasonable and rational to consider factors relating to national security when making a final decision on whether to include a given country in the list, when those factors relate to the promotion of other important Home Office policy objectives.

We believe that the policy objective of reducing documentary requirements for low-risk applicants is rational and that the criteria used to select the countries

which are included in the differential evidential requirement are objective and rational.

Data used to determine risk and inclusion is not currently held on EEA citizens. As there is no current data to suggest that they will present a significant risk in the new system, we have decided that inclusion in the differential evidence requirement is a proportionate means of delivering an immigration system for international students that represents value for money to the public. The composition of the differential evidence requirement will be subject to regular review.

Visit and short-term study

General visit rules discriminate directly based on nationality. Some nationals have to apply for a visa in advance of travel and some nationals can apply for entry at the UK border. The intended policy outcome is to facilitate genuine visitors into the UK, whilst securing the UK border and controlling immigration.

This discrimination is lawful as it is authorised by both the Immigration Act 1971 and the Immigration Rules. The Immigration Rules for visitors apply to all those subject to immigration control (i.e. those who are not British or who do not have the right of abode). Further, the visa-national/non-visa national measure is proportionate to safeguard national security. The level of discrimination is also rational, i.e. fair and reasonable, as the visa requirement decisions are always taken in the round and reflect key facts of the bilateral relationship with the country concerned. These vary globally, but often include security, compliance, returns, reciprocal arrangements for UK nationals and prosperity.

The new rules apply equally to those who have to apply for a visa in advance and those who apply for entry at the UK border.

Only applicants who are EEA citizens and nationals of Australia, Canada, Japan, New Zealand, Singapore, South Korea and the United States are currently able to obtain leave to enter by passing through an ePassport gate.⁸⁶ This decision was taken on the basis of risk, volumes and other factors such as levels of co-operation with the UK on border matters. They were assessed as being lower risk for immigration purposes, which justified them receiving preferential treatment over other non-visa nationalities.

Potential Indirect Discrimination

Where differential treatment has the potential to impact on those who possess one or more protected characteristics, consideration has been given to the proportionality of that impact in achieving the legitimate aim of creating an

⁸⁶ The Immigration (leave to enter and remain) Order 2000 (as amended), made under the Immigration Act 1971, allows nationals of Australia, Canada, Japan, New Zealand, Singapore, South Korea and the United States to be able to obtain leave to enter as a visitor by passing through an ePassport gate.

immigration system that delivers value for money, operating to the public good and bringing economic prosperity to the UK. It is the Government's view that where these impacts have been identified, the proposed policy changes can be objectively justified as a proportionate means of delivering a legitimate aim.

Skilled Worker route

The introduction of an employer-led points-based system requires applicants to meet the English language requirements. This naturally favours nationalities who come from predominantly English-speaking countries. It is the Government's belief that this difference is justified on the basis that the ability to speak English to a reasonable level is necessary to allow a migrant to conduct daily life in the UK, to make a contribution to the labour market and the economy and to encourage social cohesion in the communities that they join. A study conducted by the Ministry of Housing, Communities and Local Government found that the provision of Community-Based English Language (CBEL) can promote social integration.⁸⁷ Additionally, the MAC (2014) found that "lack of English language skills [...] can create barriers to migrant workers reporting incidents of exploitation".⁸⁸ Therefore, the English language requirement could help reduce exploitation of migrant labour. The English language requirement will continue to be set at level B1 (intermediate), meaning there is no change from the previous Tier 2 (General) category requirement.

There is an ethnicity pay gap in the UK. Across England and Wales, the latest data shows that the ethnicity pay gap narrowed to its smallest level since 2012, at 2.3% in 2019, although there is significant variation among different ethnic minorities.⁸⁹ There is evidence for an underlying discrepancy in pay based on ethnicity, which would require a significant shift in the wider labour market. It is therefore unlikely that the immigration system itself can be used to address it directly and Government is committed to addressing the race pay gap across the UK more broadly.⁹⁰ However, there is some mitigation within the system as both the general and the occupation specific thresholds are set at the 25th percentile of the relevant full-time earnings distribution, as recommended by the MAC.⁹¹ Setting the bar at a low level relative to the full-time earnings distribution reduces the likelihood of the thresholds being a barrier to meeting the requirements of the route. However, it will not eliminate it entirely. Any indirect impact is justified as the salary threshold is an important feature in the points-based system to avoid undercutting the labour market and ensure that workers are paid at an appropriate level for the job.

⁸⁷ [Measuring the impact of community-based English language provision.pdf \(publishing.service.gov.uk\)](#)

⁸⁸ The MAC report (2014) gathered evidence from engagement with the Forced Labour Monitoring Group (FLMG) - [Migrants in low-skilled work \(publishing.service.gov.uk\)](#)

⁸⁹ [Ethnicity pay gaps - Office for National Statistics \(ons.gov.uk\)](#)

⁹⁰ [Ethnicity pay reporting: consultation \(publishing.service.gov.uk\)](#)

⁹¹ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](#)

As under the previous system, the salary threshold is set nationally. People from ethnic minority backgrounds are more likely to live in some regions of the country than others. According to 2011 census data, people from ethnic minority groups were most likely to live in London including 58% of black people, 36% of Asian people, 33% of people with mixed ethnicity, and 50% of people from 'other' ethnic groups. In contrast, 10% of white people live in London.⁹² According to ASHE 2019 data⁹³, full-time annual gross pay was around 28% higher in London compared to the UK average, which may mean that on average it is more likely migrants working in London will be able to meet the salary thresholds than those who work in other regions of the UK. However, London has wider ethnicity pay gaps than other regions of the UK, with ethnic minority employees who were not born in the UK being paid up to 16.5% less than their white counterparts⁹⁴, so this is less likely to be true for migrants from ethnic minority backgrounds. It is worth noting that London is an outlier and broadly salaries in other regions are similar across the rest of the UK, ONS data shows that average earnings in London are 34% greater than the UK average.⁹⁵

Tradeable points for educational qualifications may indirectly discriminate against certain nationalities due to variations in the difficulty of verifying the equivalency and genuineness of qualifications from different countries. We will work with UK NARIC to minimise these variations as far as possible. To the extent that difficulties remain, the Government considers that they are likely to be justifiable to maintain the integrity of the immigration system against abuse. However, this will be kept under review.

Global Talent

Nationality data shows that since the route launched on 20 February 2020, to end March 2021, US nationals have used the Global Talent route the most, accounting for 18% of the current applications, followed by India at 17%, China and Nigeria both at 7%, and Russia at 5%.⁹⁶

As the route is already open to all nationalities, allowing the most talented applicants to qualify via a quicker process is unlikely to significantly affect these figures. However, it is possible that the prizes being used as a proxy for exceptional talent have previously favoured certain nationalities/races and that the simpler application process may encourage more individuals in under-represented groups into the route.

The breakdown of nationalities who have won qualifying prizes is likely to be variable between awards. For example, over 70% of winners of the Academy

⁹² 2011 Census statistics summarised at [Regional ethnic diversity - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](https://www.ethnicity-facts-figures.service.gov.uk/Regional%20ethnic%20diversity)

⁹³ [Earnings and hours worked, region by occupation by two-digit SOC: ASHE Table 3 - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/employment-and-hours-worked)

⁹⁴ [Ethnicity pay gaps - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/employment-and-hours-worked)

⁹⁵ [Employee earnings in the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/employment-and-hours-worked)

⁹⁶ Immigration Statistics March 2021 list of tables: [Entry clearance visas](https://www.ons.gov.uk/immigration)

Award for Best Actor are US nationals and in the history of the ceremony, only four black actors, one black actress and no East Asian actors or actresses have won the Best Actor or Best Actress Oscar. Looking at the Fields Medal for mathematicians, the most represented group is US nationals (21%) and just under 7% of winners are from East Asia. No black mathematicians have won the Fields Medal. The MOBO award for Best International Act, recognising non-UK nationals creating music of black origin, has primarily, but not exclusively, been awarded to black artists.

In recent years, following social pressure to address the disparity between white and black, Asian and minority ethnic winners, awarding bodies of certain major prizes, particularly in the arts and culture space, have sought to introduce rules to ensure fairness in the selection process. In time this may provide a more balanced split in winners of major awards. We will continue to review the demographics of applicants who enter under this route and consider whether additional prizes aimed at applicants from minority ethnic backgrounds could be included in future updates.

Sponsorship

No impacts have been identified to indicate that those falling within the protected characteristic of race are particularly affected by the policy changes identified in section 1 above. However, this, along with the rest of the EIA, will be kept under review.

International Sportsperson

The alignment of systems for EEA and non-EEA nationals means that this route applies equally to nationalities. As per the considerations and justifications in terms of proportionality set out for Skilled Workers above, the same potential for indirect discrimination on the grounds of nationality for those not from English-speaking nations apply. For applicants seeking permission of 12 months or less, an English-language requirement does not apply, so the potential for indirect discrimination on the basis of nationality in this respect does not arise. However, applicants seeking a period of permission greater than 12 months must meet the English language requirement.

Graduate

The international student population has significant numbers from certain countries: since October 2020, 35 per cent of the main applicants on long-term study routes have come from China, and 23 per cent from India; the next largest cohort is 7 per cent from Nigeria⁹⁷. Therefore, there is a potential that the Graduate Route applicants may disproportionately share certain ethnic and national backgrounds, although this is not a certainty as we do not have information on whether students from different nationalities are equally

⁹⁷ Internal Home Office data

successful in graduating their courses, or would be equally interested in using this new route.

The Graduate route is open to people who have been studying part-time as well as full-time: as noted earlier, research carried out by HEPI and London Economics on part-time students shows that that adults seeking to study part-time are likely to be from disadvantaged backgrounds, and in particular, are more likely to be white working-class, to be from certain black and minority ethnic backgrounds or to be disabled.⁹⁸ Accordingly there may be benefits to the eligibility criteria for the Graduate route under the PSED, if those undertaking part-time study are more likely to possess one or more protected characteristic.

Student route

The changes to both the General and Child sub-categories of the Student route may discriminate indirectly based on the protected characteristic of race. Consideration given to the impact of these policies is detailed below.

Safeguarding

There is a statutory duty of care for both home and international students. Changes to sponsor guidance regarding safeguarding of children could lead to different treatment of sponsored international students compared to those with home student status if a sponsor applies a different standard of care to students who are not British citizens or who are not settled in the UK, that is, sponsors might choose to be stricter in their safeguarding interpretation for international students due to the regulatory requirements in the sponsor licence. This would not however, be a decision made by the Home Office.

Academic engagement

The existing attendance monitoring policy (which imposes a duty on sponsors to inform UKVI if a sponsored student ceases to attend academic activities related to their course) is being replaced by a new academic engagement policy. This duty requires sponsors to implement an institution-wide policy to track all sponsored students' academic engagement with their course. Sponsors will be required to report to UKVI if a sponsored student falls below an acceptable level of engagement, and explain what action is being taken. This policy could lead to different treatment of international students arising from the protected characteristic of nationality. This policy is proportionate in achieving the aim of delivering an immigration route for students that ensures a migrant complies with the conditions of their leave around study in the UK and to guard against abuse from non-genuine students.

⁹⁸ Higher Education Policy Institute report [Unheard-The-voices-of-part-time-adult-learners.pdf](https://hepi.ac.uk/wp-content/uploads/2022/07/Unheard-The-voices-of-part-time-adult-learners.pdf) (hepi.ac.uk)

The other changes to policy and Rules outlined above are not considered to have a particular impact on those possessing the protected characteristic of race.

General

Most entry clearance applications are made online and have to be completed in English. This may have a disproportionate impact upon some people from non-English-speaking countries, or where English is not commonly taught as a second language, although many users of the short-term study route come to the UK to undertake English language courses and so a requirement to complete applications in English may impact this group. UKVI allows other people to apply on behalf of applicants or assist with applications to mitigate these possible issues.

Requirements

Digitisation of the immigration system

The ETA requirement will apply to nationalities where English may not be the first language of some applicants. This may result in a differential impact amounting to indirect discrimination.

However, all of the UK's application forms in respect of immigration applications are written and have to be completed in English. This means that anyone (non-visa or visa nationals) wishing to come to the UK is treated equally. Moreover, the Government's online application forms are designed to be easy to complete and written in plain English, so are likely to be more accessible to those with limited knowledge of English. In addition, there is no bar to applicants asking third parties such as friends, relatives or companies to help translate or complete applications on their behalf.

To self-enrol facial biometrics remotely an applicant requires having a passport which is compatible with the Generic Identity Verification (GIDV) app, commonly known as the 'chip checker'. As a result, applicants from countries which do not currently offer compatible chipped passports are not able to use the fully digital system, even when this rolls out across more routes. In such cases they will need to attend a VAC or seek third-party assistance, resulting in a less streamlined process and potentially entailing travel and associated cost to access the VAC. This may constitute indirect discrimination against nationals of those countries. However, the provision of an alternative way to provide biometrics where a passport is not compatible with the GIDV would also constitute a mitigation to enable people to apply for entry clearance to the UK regardless of their nationality or whether they hold a biometric passport. The indirect discrimination may constitute an interference to a non-biometric passport holder private life, but we consider this to be proportionate given the policy is in the interests of national security, public

safety and is intended to prevent crime and waiving the requirement would expose the UK to an unacceptable risk of harm.

Biometric algorithms included with the end-to-end digital process to check, verify and enrol facial biometrics are known to have a degree of bias in the accuracy of facial matching. This is particularly prevalent for those with darker skin tones⁹⁹. The emerging contactless fingerprinting technologies may encounter similar issues. There is focus by biometric technology companies to reduce algorithm bias. The Home Office tests the usability of biometric technologies with a wide demographic of people to ensure that any bias is understood. This allows mitigations to be put in place to minimise impact on individuals. In practice, algorithms are used at a number of stages in the IDV process, but the Home Office never relies on algorithmic checks to make negative decisions about an application or change request – the decision always rests with a caseworker. For example, the liveness test assessment performed with the IDV app is used to determine genuine presence. To the extent that a check may fall below the matching threshold, or has not been performed, it will be referred to a case-working team. The same service level agreement applies for completion.

The Home Office does not currently collect data on race as part of the routine application process so there is no data to evidence the race or ethnic background of applicants against the matching of IDV checks. However, we are reviewing the potential approaches to the collection of such data, based on recommendations made in the Windrush Lessons Learned Review, which will inform our development of immigration processes, and impact on any ongoing digitisation of the immigration system. We will continue to monitor the potential for indirect discrimination on the basis of race, including whether biometric processes have a differential impact on people on the basis of this protected characteristic.

Religion and belief

The new system brings EEA citizens and non-EEA citizens under the same UK laws and Immigration Rules. The Government will be promoting equality of nationalities within the new system which is justified for the reasons already set out. Direct discrimination based on nationality might potentially lead to different impacts based on religion or belief. This is most likely to be because of a correlation between nationality and religion. For example, maintaining the Common Travel Area may favour Christians as that is the predominant religion in Ireland. However, this can be justified as proportionate in achieving the aims of protecting the rights of Irish citizens in the UK, given the longstanding historical and political context of Ireland and the UK's unique relationship.

⁹⁹ The Alan Turing Institute: [An Explainer – Understanding bias in facial recognition technologies](#)

English language requirements may also have an indirect impact on religion or belief stemming from a correlation between nationality and religion. It is possible that English language requirements may disproportionately disadvantage EEA citizens from predominantly Catholic countries. Internal Home Office analysis of the English proficiency of EEA migrants living in the UK in 2011 showed that the nationalities with the lowest levels of English tended to be from predominantly Catholic countries: 72.4% of Polish citizens are proficient in English, 80.8% of Portuguese and 86.9% of Spanish. This contrasted with 99.9% of Swedish and 99.8% of Danish citizens having English proficiency.¹⁰⁰

For non-EEA citizens, lowering the skills threshold to RQF3 will open up the route to a wider pool of applicants, however the English language requirements may provide a greater barrier than before if fewer applicants at RQF3 can speak English than those at RQF6. International data on English proficiency shows that applicants from countries with predominantly Muslim populations may be disadvantaged as English proficiency levels tend to be lower.¹⁰¹

This is proportionate and justified because, as set out in the Home Office Indicators of Integration Framework, the ability to speak English to a reasonable level is necessary to allow a migrant to conduct daily life in the UK, to make a contribution to the labour market and the economy and to encourage social cohesion in the communities that they join.¹⁰² Additionally, as already noted, the MAC (2014) found that a “lack of English language skills [...] can create barriers to migrant workers reporting incidents of exploitation”.¹⁰³ Therefore, the English language requirement could help reduce exploitation of migrant labour.

According to research by the Pew Center¹⁰⁴, about 75% of people in Europe identify as Christians. This suggests that the current users of the fully digitised system are more likely to be Christian and benefit from the more modern, streamlined customer experience that this system entails. This discrimination is considered a proportionate means of achieving a legitimate aim, to implement a modern, streamlined and secure immigration system. The addition of further routes and expansion to applicants from wider geographical areas will gradually reduce the potential impacts.

Nothing else has been identified that would indicate that those falling within the protected characteristic of religion or belief will be particularly affected by the policy and Rules changes, but we will keep this under review.

¹⁰⁰ This is based on internal HO social impacts analysis using data from the 2011 census.

¹⁰¹ [EF EPI 2021 – EF English Proficiency Index](#)

¹⁰² Home Office Indicators of Integration framework (2019, third edition)

¹⁰³ The MAC report (2014) gathered evidence from engagement with the Forced Labour Monitoring Group (FLMG) - [Migrants in low-skilled work \(publishing.service.gov.uk\)](#)

¹⁰⁴ [Religions in Europe | Data and Statistics | GRF \(globalreligiousfutures.org\)](#)

Sex

Skilled Worker route

The International Passenger Survey 2019¹⁰⁵ estimates just over half EU inflows in 2019 were male (55%) and just under half female (45%). Conversely, 45% of non-EU inflows were estimated to be male and 55% female.

An income threshold was already a feature of the immigration rules. Applicants for a Tier 2 work visa were required to earn £30,000 or the 'appropriate rate' for their occupation - whichever was higher.

The MAC's recommendations from its report on salary thresholds represent a change in restrictions for non-EEA citizens coming to the UK through the previous Tier 2 (General) route. The policy may therefore offer greater opportunities to employers looking to source skilled labour from outside the UK and EEA.

The MAC did not find any evidence of gender discrimination in the Tier 2 system.¹⁰⁶ Their analysis found that given the occupational distribution of Tier 2 (General), one would expect 43% of Restricted Certificates of Sponsorship to be for females. In reality the 2018/19 data showed around 47% of Tier 2 (General) out-of-country visas were issued to females and 53% to males.¹⁰⁷ This suggests that females actually made up a slightly higher proportion of Tier 2 (General) than would be expected given its occupational mix. However, in the MAC's analysis of Tier 2 data they found significant variation across occupations. For example, 78% of nurses sponsored were female, compared to 25% of IT professionals.¹⁰⁸

A higher proportion of female applicants in occupations where national pay scales are used (and which are not subject to the £25,600 general salary threshold) could reduce differential impacts of the salary requirements on the protected characteristic of sex. The changes will make the Skilled Worker visa open to more applicants than Tier 2 (General) was; however, the characteristics of future migrants who will benefit from a broadening of policy restrictions are unknown as the pool of eligible non-EEA citizens who meet the requisite skill and salary threshold is unknown. The expansion of the shortage occupation list will reduce the salary threshold further (£20,480) for senior care workers, who are likely to have a higher proportion of female applicants who will benefit from this change. For example, Annual Survey of

¹⁰⁵ [International Passenger Survey 3.05a, citizenship by sex, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

¹⁰⁶ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

¹⁰⁷ Internal Home Office management information

¹⁰⁸ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Hours and Earnings data for 2019¹⁰⁹ (published by the ONS) show that 81% of senior care workers, 80% of nursing auxiliaries and 100% of veterinary nurses are female.

The Government is aware that prescribing a minimum salary threshold could have differential impacts on individuals on the basis of their sex. Women may find it disproportionately more difficult to meet the threshold than men. Although the gender pay gap for all employees is gradually closing, it is still present. For all employees it fell from 17.3% in 2013 to 15.5% in 2020. However, amongst full-time employees it stands at 8.9%, little changed from 2018, and a decline of only 0.6 percentage points since 2012.¹¹⁰

Both the general and the occupation specific thresholds are set at the 25th percentile of the relevant full-time earnings distribution, as recommended by the MAC.¹¹¹ This means that a migrant needs to be paid at or above the level of the bottom 25% of earners in that category, and that 75% of people in those roles are paid more. Setting the bar at a low level relative to the full-time earnings distribution reduces the likelihood of the thresholds being a barrier to women meeting the requirements of the route. The salary thresholds are important in setting a minimum floor to ensure that wages are not undercut, and that those with protected characteristics are not underpaid for the work that they do. It also fulfils a key policy principle that migrants be able to support themselves once in the UK.

The general salary threshold and going rates are the same across the country. Data from the annual survey of hours and earnings shows that while the median salary for men working full-time across all the 13 regions of the UK in 2021 was above the general salary threshold, for women working full-time the median salary is not above the general salary threshold in two regions, the North East and East Midlands. Women may therefore be disproportionately affected by there being no regional variation in salary thresholds.¹¹² In their January 2020 report, the MAC again recommended a single national salary threshold. They also stated that this was in line with the approach taken by the Low Pay Commission on the minimum wage. The Government believes that any indirect discrimination as a result of having a national threshold is justified, as regional salary thresholds would overly complicate the immigration system and cause significant difficulties for employers who need the flexibility to deploy their staff across the UK. The Government also does not want to reinforce regional inequalities through the immigration system.

By closely tying the settlement salary requirements to those required to qualify initially under the route, a worker in a lower paid profession who has been

¹⁰⁹ [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/employment-and-hours-worked/occupations-by-four-digit-soc/ashe-table-14)

¹¹⁰ [Gender pay gap in the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/employment-and-hours-worked/gender-pay-gap)

¹¹¹ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864847/a-points-based-system-and-salary-thresholds-for-immigration-report.pdf)

¹¹² [Your Data - Nomis - Official Labour Market Statistics \(nomisweb.co.uk\)](https://nomisweb.co.uk/)

paid the going rate is still able to qualify and would not require a significant increase in their pay in order to qualify for settlement. We are addressing the impact of previous settlement rules (under Tier 2 (General) which affected lower-paid occupations and likely have a disproportionate impact on women who are more likely to occupy these roles.

The removal of the six-year rule, which previously meant that Tier 2 visa holders were only permitted to remain in the UK for up to six years, will mitigate further the issues facing those who still will not meet the revised salary requirements or do not wish to settle permanently by no longer requiring them and their family to switch into another immigration category or leave the UK after six years.

As the general salary threshold is not pro-rated, it may also disproportionately affect women who are more likely to work part-time. Latest ONS analysis of the Labour Force Survey (LFS)¹¹³ found that 12% of men in employment work part-time whilst 37% of women in employment work part-time. In the three months up to April 2021, the female employment rate was at 72%, 6 percentage points lower than their male counterparts.¹¹⁴ It should be noted that part-time working is more prevalent in lower paid occupations where workers are less likely to meet the skills and salary thresholds for the Skilled Worker route: in 2018/9 a quarter of UK employees were part-time workers, yet this percentage rose to two-thirds of employees on the minimum wage.¹¹⁵ Furthermore UK labour market figures show that in 2020 the median salary for a male full-time worker was £33,923 and for a female full-time worker £27,981, whereas for male part-time workers it was £10,893 and for female part-time workers £11,312.¹¹⁶ This would suggest that simply pro-rating the general salary threshold may not have an impact on the majority of part-time workers.

Going rates for individual occupations can be pro-rated depending on the applicant's working pattern, as long as the total applicable general salary threshold (£25,600, £23,040 or £20,480) is met. The general threshold is a measure of the economic contribution an applicant will make to the UK. The MAC looked at the potential impact of the general salary threshold on part-time workers in its January 2020 report and recommended not adjusting general salary threshold levels to accommodate part-time working.¹¹⁷ It suggested that adapting the system in this way could have significant enforcement issues: if salary thresholds were pro-rated there is a risk that some employers might claim a migrant is part-time to lower the salary threshold but then work the migrant more than the claimed hours. The immigration enforcement mechanism will be able to check that a worker is

¹¹³ [EMP01 SA: Full-time, part-time and temporary workers \(seasonally adjusted\) - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/economy/employmentandproductivity/lfs/articles/emp01sa-full-time-part-time-and-temporary-workers-seasonally-adjusted)

¹¹⁴ [Employment and employee types - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/economy/employmentandproductivity/articles/employment-and-employee-types)

¹¹⁵ [National Living Wage and National Minimum Wage: government evidence on compliance and enforcement 2018/19 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/evidence/reports-and-publications/national-living-wage-and-national-minimum-wage-governments-evidence-on-compliance-and-enforcement-2018-19)

¹¹⁶ [Employee earnings in the UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/economy/employmentandproductivity/articles/employee-earnings-in-the-uk)

¹¹⁷ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/evidence/reports-and-publications/a-points-based-system-and-salary-thresholds-for-immigration-report)

being paid at or above the threshold but is unlikely to be able to detect how many hours a migrant is working.

The Government has put mitigations in place within the system. The general salary threshold has been lowered to £25,600, which will reduce the scale of the different impact on women (although will not eliminate it). The change to the minimum working hours rule for those on the shortage occupation list will enable more individuals to be able to undertake part-time work where the going rate is above the (now lower) salary threshold and thus reduce the risk of indirectly discriminating against particular groups with protected characteristics such as women or individuals with a disability, who are more likely to work part-time.

While recognising the complexity of the issues around part-time work, and having put mitigations in place, the Government maintains that the salary threshold is an important feature of the points-based system. The minimum salary threshold floor ensures individuals can support themselves whilst in the UK and that overall migration has a net positive fiscal contribution to the economy. Going rates are intended to avoid exploitation of workers by preventing undercutting in the labour market. Overall, these principles are to help ensure that migration works in the best interests of the UK resident population.

In some circumstances the introduction of a minimum hourly pay floor may reduce some of the access to the Skilled Worker route for those occupations paid lower wages and working longer than standard hours. If the findings for the general population outlined above – a gender pay gap and a higher share of part time female workers – held for the Skilled Worker visa-holders impacted by the minimum hourly pay floor the higher tendency to work part-time might dampen the risk of impact from the minimum hourly pay floor.

It is possible those who would otherwise work part-time may be asked to work longer hours than are suitable for them, in order for their sponsors to meet the salary requirement. The minimum hourly pay floor reduces this risk and protects part-time workers from underpayment in a similar way to full-time workers.

We believe that any reduction in access is both justified and balanced by the additional protection from exploitation and removing the downward pressure on wages that this change would bring. Accounting for a gender pay gap in the pay floor would help entrench that gap.

Therefore, these changes are considered proportionate and justified, and additional mitigations within the immigration system may entrench any equalities rather than eliminate them.

Global Talent

Since 2011, just under 65% of migrants applying for the Tier 1 (Exceptional Talent) route (the precursor to the Global Talent route) were men compared to just under 36% of women. Opening up the route to a wider range of individuals – those skilled in Science, Technology, Engineering and Mathematics subjects – is unlikely to affect these figures, particularly given that the route is self-selected. The difference between male and female applicants in the existing route is broadly reflective of the overall split in terms of gender within the scientific field. The intention of the changes to the route is to encourage greater use by those with STEM skills. Any indirect discrimination can be justified as a proportionate means of strengthening the UK economy, increasing confidence and investment within STEM research and supporting the Government's Industrial Strategy.

Sponsorship

No impacts have been identified to indicate that those falling within the protected characteristic of sex are particularly affected by the policy changes identified in section 1 above. However, this, along with the rest of the EIA, will be kept under review.

International Sportsperson

There might be some indirect discrimination as there is a tendency for more male applicants to apply on the Sports routes than female applicants. In 2020 there were 22 women on the T2 Sportsperson visa, and 127 men, indicating that men may be disproportionately represented on this route.

The Home Office relies on the knowledge and expertise of SGBs to identify the circumstances in which their sports need to access the immigration system, and to bring forward criteria accordingly. Some SGBs do not have criteria under which female players are eligible to be endorsed. Where this is the case, this may arise from the fact that the female game in that sport, either in the UK or internationally, is not of a standard or stage of development in which an international transfer market is utilised. The SGB criteria are reviewed at least annually, providing flexibility to update the criteria as opportunities change, to reflect developments in the game. Requests for additional criteria to facilitate access to the immigration system for elite sportspeople must always be considered on a case by case basis. We will work with SGBs to ensure that where such access is needed the criteria are set appropriately to reflect any differences between male and female games where necessary whilst maintaining an overall objective of ensuring the route is targeted at elite sportspeople. Additionally, there is nothing within any of the SGB criteria which prevents a female person being endorsed as a coach or manager.

Any indirect discrimination that arises is a justified as a proportionate means of achieving the legitimate policy aim of ensuring that the route is only used by

internationally established individuals who are able to make a significant contribution to the development of their sport at its highest level in the UK.

Graduate

HESA statistics show that of students enrolled at UK universities in the 2019/20 academic year, 57% were female¹¹⁸. We do not hold statistics on successful completion rates of university courses by sex. However, it is possible that greater numbers of one sex may be eligible for the route than another, based on the number of successful completions of university courses. Any potential indirect discrimination on the basis of sex is a proportionate means of achieving a legitimate aim, to provide a route to those who completed relevant higher education, and promote the interest of the UK's HE sector.

Students

No impacts have been identified that would indicate that those falling within the protected characteristic of sex will be particularly affected by the policy changes relating to students as set out in Section 1. However, this, along with the rest of the EIA, will be kept under review.

Youth Mobility and Professional Schemes

No impacts have been identified that would indicate that those falling within the protected characteristic of sex will be particularly affected by the policy changes relating to the Youth Mobility and Youth Professional Schemes as set out in Section 1. However, this, along with the rest of the EIA, will be kept under review.

Requirements

Digitisation of the immigration system

There may be indirect discrimination against women, as they have been identified as being over-represented in many groups identified as vulnerable¹¹⁹, and may find a digital system more challenging. Women are also over-represented amongst non-internet users.

Support is available to those who have online access to their immigration status to enable them to regain access where a third party (e.g. an abusive partner) refuses to hand it over. Support services will continue to develop and be implemented in line with the rollout of eVisa (online immigration status). Further detail will be set out in the eVisa EIA, to be published in due course.

¹¹⁸ [Figure 5 - HE student enrolments by personal characteristics 2015/16 to 2019/20 | HESA](#)

¹¹⁹ Think NPC report, '[How the EU Settlement Scheme affects women and girls](#)'; The Migration Observatory report, '[Unsettled Status – 2020: Which EU Citizens are at Risk of Failing to Secure their Rights after Brexit?](#)'

Interaction with other immigration routes

As set out above, those who are unable to meet the requirements of the Skilled Worker route or other permanent immigration routes but who still wish to work in the UK will primarily rely on temporary routes. The temporary routes focus on particular sectors and roles and there may be an impact (both EEA and non-EEA citizens) on the protected characteristic of sex where roles are associated more strongly with a particular gender. This will depend on the specific routes. We have not identified any specific impact, but this will be kept under review.

Conditions and requirements

The changes to maintenance requirements may have an impact on sex. This is because there continues to be a wage gap between sexes in the UK and globally¹²⁰. Any increase in financial maintenance requirements for the individual may adversely affect female applicants to a larger extent than males. Under the policy changes, individuals entering the country through economic routes will be required to prove that they have access to more funds than they do currently. This potentially puts individual female applicants at disadvantage. However, female applicants with a family will benefit from the lower requirement for dependants. There is no recent data on which applicants were female, or who were later joined by dependants.

The policy changes reduce the burden on female applicants in the UK. For those coming to the UK, it should be noted that the change is an increase in amount, rather than a new requirement, as all applicants must already show they either have funds or can maintain and accommodate themselves in the UK.

To the extent that there may be indirect discrimination, it is considered proportionate to achieve the policy aims of ensuring migrants have sufficient funds to maintain and accommodate themselves while they are not yet earning in the UK.

Sexual Orientation

It is possible that applicants to routes on the points-based system that permit a dependant partner to apply, and who are in a same-sex relationship but whose country of origin does not recognise such, or criminalises same sex relationships, will face difficulties in proving a genuine and subsisting relationship where they wish to sponsor a dependant partner as permitted under these routes. The Immigration Rules permit multiple ways in which a relationship can be proven as genuine and subsisting to mitigate for those

¹²⁰ World Economic Forum [Global Gender Gap Report 2021](#)

nationalities where circumstances such as same sex marriage or civil partnership are not legally permitted in such persons' home country.

Otherwise, no impacts have been identified that would indicate that those falling within the protected characteristic of sexual orientation will be particularly affected by the policy changes set out in section 1 above. However, this, along with the rest of the EIA will be kept under review.

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 does not have to be considered in relation to the exercise of functions by ministers or other authorised persons under the Immigration Acts in respect of race (excluding colour), religion or belief and age.

The Equality Act specifies that this limb involves having due regard to three specific aspects:

- removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- taking 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
- encouraging 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.

As set out above, the points-based system is designed in such a way as to be practically accessible to all EEA and non-EEA citizens, including those with relevant protected characteristics, as a means of advancing equality of opportunity.

Prior to the launch of the points-based system in January 2021, the Government undertook a programme of engagement to raise awareness of the new system, ensuring those affected by the changes are fully aware of what it means for them and understand how the system will operate, and communications continue outside the UK to promote and raise awareness of the new system. We continue to work closely with stakeholders to understand their views on the implementation of the points-based system using engagement via multiple methods across the whole of the UK.

3c. Consideration of limb 3:

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

The Equality Act specifies that having due regard to this limb involves, in particular, considering the need to:

- (a) tackle prejudice; and,
- (b) promote understanding.

The new system brings EEA citizens and non-EEA citizens under the same UK laws and Immigration Rules. The impacts of immigration are complex.

Migration, and changes in migration flows, can have impacts on communities. Community impacts include access to local housing, congestion, access to public services, environmental impacts and crime. These are particularly difficult to quantify, as the MAC has found.¹²¹

The perceived impact of the above proposals on the resident population and communities is unknown. Evidence on the impact of migration on communities is limited. Of the evidence available, there is little suggestion of migration having a significant impact, either positive or negative, on communities. The MAC concluded that “there is no evidence that migration has reduced the average level of subjective well-being in the UK”.¹²² Where the MAC was able to draw conclusions, it suggested that “migration does not affect crime”.

As outlined above, the UK’s points-based immigration system caters for the most highly skilled workers, skilled workers, students and innovators and a range of other specialist routes for global leaders in their field. The system is designed to increase the economic benefits of migration and to minimise disbenefits to the resident population. Where certain groups who share a protected characteristic may be particularly affected by certain aspects of the system, the Government has sought to mitigate this impact wherever possible.

Migrants need to meet the criteria of a route within the UK’s points-based immigration system in order to qualify to come to live and work in the UK. A study by the Runnymede Trust analysing the factors that assist with the integration of new migrants found that two of the key factors (in terms of having a broad impact across several dimensions of integration) are employment and fluency in the native language.¹²³ The selection criteria within the points-based immigration system, such as requiring minimum levels of ability to use the English language and the skills threshold, will encourage integration. Furthermore, these individuals may not need as much support as

¹²¹ MAC, January 2012, [Analysis of the impacts of migration - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/102442/analysis_of_the_impacts_of_migration.pdf), pages 94-96

¹²² MAC 2018, [EEA migration report](#)

¹²³ Runnymede report, [‘What works with integrating new migrants?’](#)

other groups. Employment and native language are key components of integration, but integration is a complex and two-way process. 'Meaningful' social relations are needed with existing settled communities, as well as other support networks, such as employers and communities.¹²⁴

Other criteria may also play a role in community relations. For example, the minimum salary threshold floor and minimum hourly rate have been calculated to ensure individuals are able to support themselves whilst in the UK, given they will not have access to most public funds. As outlined in the MAC report on a points-based system and salary thresholds¹²⁵, salary thresholds, including the going rates, are intended to prevent undercutting in the labour market and help ensure migrants provide positive fiscal contributions. As outlined above, the MAC concluded that "salary thresholds can help ensure that migrants are helping to improve the public finances: of every extra pound in earnings approximately 50p goes to the state, and they can help realise the ambition of the UK as a high wage, high skill, high productivity economy".¹²⁶

Alterations to maintenance requirements will mean that the Immigration Rules apply equally to more applicants. Developing a more coherent policy should result in more equitable treatment for people with protected characteristics who may apply across all routes, thereby fostering good relations between all. While there will be a difference in the maintenance requirement for work routes and students and their dependants, we consider this justified based on the different nature of the routes. For example:

- a student is coming to study and will not, generally, be working or able to earn money to support themselves and must therefore show they have sufficient funds for nine months (equivalent to term time) and that student loans are a transparent indicator of the amount they are likely to need.
- a worker will generally be paid a salary and therefore need to show they can meet their living costs for a short time (approximately one month, where they have a job offer)
- the levels for dependants should be linked to the levels required of the main applicant, for example, a student dependant should show higher levels of maintenance because their family unit may need to be supported without an ongoing salary and may need to pay for additional accommodation (if the student is housed in student accommodation which often does not allow families).

There will be a difference in maintenance requirements between those who have been living in the UK for more than a year and those applying for entry

¹²⁴ Runnymede report, '[What works with integrating new migrants?](#)'

¹²⁵ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](#)

¹²⁶ [A Points-Based System and Salary Thresholds for Immigration: report \(publishing.service.gov.uk\)](#)

clearance and who have been in the UK for less than a year. We consider this justified as the difference will demonstrate that a migrant is able to support themselves here for a sufficient period and that they will have a net positive impact on the UK economy.

The Government has engaged and will continue to engage on the issue of migration and the points-based system. Extensive stakeholder engagement has been held through 2019, 2020 and 2021, reaching over 30,000 stakeholders, which has contributed to the development of the policy. Engagement highlighted the need for businesses and migrants to be given time to adapt to change. We will continue to engage to inform users of the system of the proposed changes, as new routes come on stream, ensuring that those affected by the changes, such as migrants, businesses and education institutions, understand how the new immigration system is operating. We will continue to seek to emphasise the benefits of the changes, tackle prejudice and promote understanding of the system.

The Government will continue to keep impacts under review. The anticipated impacts are considered to be proportionate and should not adversely affect good relations between people who share certain protected characteristics and those who do not.

4. 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?

As the policy and implementation details are developed on the points-based system, further full consideration will continue to be given to ensuring that both direct and indirect discrimination are removed or mitigated in the system wherever possible.

5. Review date

Autumn 2022

6. 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: Philippa Rouse

Name/Title: FBIS Strategy and Engagement Team

Directorate/Unit: FBIS Strategy and Engagement

Lead contact: FBIS Strategy and Engagement Team

Date: Autumn 2022

APPENDIX

Fees

The Home Office charges fees for a range of functions in connection with immigration and nationality, for example: applications for visas to enter the UK; and fees for optional, premium services. The border, immigration and citizenship system is predominately funded by the user, in line with Government policy that those who use and benefit directly from immigration should contribute appropriately, reducing the cost to the Exchequer and reducing the burden on the UK taxpayer. Income from UK Visas and Immigration Service fees are a vital part of funding for the immigration system. However, the Home Office does not make an overall profit and all revenue is used to fund the wider system.

With the end of Free Movement, EEA citizens, in common with the rest of the world's citizens, need to meet specific criteria in order to enter and remain in this country, including obtaining visas for which they will need to pay a fee.

The fee payable is determined by the product, not the applicant. All fees and fee changes are set within the parameters of Section 68 (9) of the Immigration Act 2014 and subject to the agreement of HM Treasury and Parliament. Any impact on EEA citizens arises purely from the fact that they no longer benefit from the exemption created by freedom of movement (and therefore the standard requirements of these routes are applicable to them for the first time).

All applications for each individual route are subject to the same fee and these are applied consistently in accordance with the fees legislation and related to the type of application made. This means that fees apply to both EEA and non-EEA citizens where they are subject to visa requirements and aligns with the fundamental aim of the new system for all applicants to be treated equally. As the intention is to apply fees to applicants globally, this reduces the direct discrimination based on race (nationality) as defined by the Equality Act 2010.

The exception to this fully aligned system is where direct discrimination on the grounds of race (nationality) is lawful due to it being contained in primary legislation or the subject of a Ministerial Authorisation (as is the case in the current system) on the basis of: recognising the status of Irish Citizens; international agreements; and objective evidence about compliance and security risk. The impact this has on visa requirements may impact associated fees.

Any direct or indirect discrimination flows from the broader decisions on where a visa application is required, rather than the fee itself.

In relation to limb 2 and limb 3, the Government has undertaken an extensive programme of engagement through 2019, 2020 and 2021, to raise awareness

of the new system, ensuring those affected by the changes are fully aware of what it means for them and understand how the system will operate, including the application of fees. The Home Office also provides for exceptions to the need to pay application fees in a number of specific circumstances. These exceptions ensure that the UK's immigration and nationality fee structure complies with international obligations and wider Government policy.

The Government believes that any indirect impacts on EEA citizens are justified, as extending the application of fees to EEA citizens is a direct consequence of creating a single immigration system and the Government will be promoting equality of nationalities within the Future Border and Immigration System, by ensuring that fees are applied to both EEA and non-EEA citizens. All fees for immigration and nationality applications are kept under review.

To comply with the Section 55 procedural duty, the Home Secretary is required to have regard to the wellbeing of children. In the majority of cases, children's best interests are met by being with a parent, who provides safe and effective care. There may also be wider societal benefits to a child of coming to the UK, such as access to the UK education system, healthcare at the point of need and a stable environment free from conflict. All immigration fees are reinvested into the Borders and Migration system, and the contribution that these fees make to the costs of running the borders and migration services is significant. Without these fees, a greater portion of taxpayer funding would be required, which would reduce funding available for other areas of government spend, including other areas that affect children in the UK such as health and education.

The Home Office has always provided for exceptions to the need to pay application fees for leave to remain in a number of specific circumstances and these are available to all applicants. These exceptions ensure that the Home Office's immigration and nationality fee structure complies with international obligations, such as in relation to refugees, and wider government policy such as the protection of spouses from domestic abuse and the protection of vulnerable children while ensuring the immigration system covers the costs of providing services, and continues to be predominately funded by the user, in line with Government policy.

On balance our assessment is that the fee charges are fair to all children in the UK. There is nothing to indicate that EEA children will be adversely impacted compared to non-EEA children where this policy already applies. Charging fees to those who use the system is a reasonable means of reducing reliance on the UK taxpayer. Funding from the Exchequer can then be made available for wider public services including health and education services that also benefit children in the UK.