



Increasing the maximum civil penalty amount for the Right to Work and Right to Rent Schemes

Background

The UK has in place a framework of laws, policies and administrative arrangements to ensure access to work, benefits and services is only available to those who are lawfully present in the UK and have the right to access them.

The Right to Work and Right to Rent Schemes (“the Schemes”) were introduced as part of these measures to ensure only those who are legally entitled to work in the UK can access employment and to prevent illegal migrants and overstayers from accessing the private rental sector. The measures aim to tackle and deter illegal immigration, to secure compliance with and help to enforce UK immigration laws and to support efforts to tackle those who exploit vulnerable migrants.

Employers and landlords (including letting agents) can obtain a statutory excuse (defence) against liability for a civil penalty by carrying out prescribed checks before employing someone or entering into a tenancy agreement. The Schemes provide for civil and criminal sanctions for non-compliance if an employer is found to have employed an adult subject to immigration control who is disqualified from working by reason of their immigration status, or a landlord is found to have authorised an adult to occupy premises in England who is disqualified from renting by reason of their immigration status, without a statutory excuse.

The current level of penalty is calculated using a sliding scale based on compliance. For Right to Work, the penalty aims to incentivise prior reporting of illegal workers and co-operation with enforcement activity to determine liability. The current civil penalty levels were set in 2014 as follows:

	First Breach	Repeat Breach <i>(within three years)</i>
Employers	£15,000 (per worker)	£20,000 (per worker)
Landlords	£80 (per lodger) £1000 (per occupier)	£500 (per lodger) £3000 (per occupier)

Summary of changes

The value of the maximum civil penalty issued to non-compliant employers and private rental sector landlords (including letting agents) as part of the Schemes is being increased. The proposed uplifts, which require secondary legislation subject to the affirmative procedure, would take effect in January 2024.

The civil penalty for employers is to be raised to £45,000 per illegal worker for a first breach and £60,000 per illegal worker for repeat breaches.

For landlords (including letting agents) the civil penalty is to be raised to £5,000 per lodger and £10,000 per occupier for a first breach, with repeat breaches set at £10,000 per lodger and £20,000 per occupier.

	First Breach	Repeat Breach (within 3 years)
Employers	£45,000 (<i>per worker</i>)	£60,000 (<i>per worker</i>)
Landlords	£5,000 (<i>per lodger</i>) £10,000 (<i>per occupier</i>)	£10,000 (<i>per lodger</i>) £20,000 (<i>per occupier</i>)

As is the case now, the maximum penalty will only be levied on an employer or landlord (including letting agents) who has breached the Schemes on more than one occasion.

The Civil Penalties are being increased with the:

1. Aim to change the behaviour of the non-compliant employer/landlord/letting agent.
2. Aim to eliminate any financial gain or benefit from non-compliance.
3. Be proportionate to the nature of the offence and the harm caused.
4. Aim to restore the harm caused by regulatory non-compliance and
5. Aim to deter future non-compliance.
6. Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction.

The new maximum level of penalty further strengthens enforcement of the right to work and the right to rent in the UK by making the sanctions more punitive whilst acting as a deterrent to those who would seek to undermine the UK's immigration laws or provide the means for migrants to remain in the UK unlawfully. This supports wider Government activity to tackle illegal migration and unscrupulous employers and landlords (including letting agents). That is in the interests of a prosperous and fair society, which supports those who play by the rules and protects those who would otherwise be exploited.

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

General Information

To ensure due regard for the Public Sector Equality Duty, officials have studied a range of evidence from both government and independent sources. Where the evidence contributes directly to the assessment it is referenced in the body of the document. Looking at evidence not directly contributing to the assessment contextualises the broader impacts of the Schemes framework as well as the measures contained within and helps understanding of the bigger picture.

As its baseline, this EIA uses the UK population as a whole. This is because the quantity and quality of data which can be used as part of the Public Sector Equality Duty consideration is much higher for the UK population as a whole

than it is for the migrant (both lawful and irregular) population. By baselining against the UK population, it has been possible to consider any differential impact caused across all of the protected characteristics more thoroughly.

In addition, while the Right to Rent Scheme is in force in England only at this time, it affects the entire population as it requires all nationalities to present evidence of their right to rent. The Right to Work Scheme is in force across the UK. Therefore, it is considered that the baseline should reflect the broad nature of the policy to ensure any wide-ranging impact is fully identified.

Employment Sector

In the UK 1.4 million businesses have employees out of 5.6 million UK private sector businesses. The vast majority of those businesses have less than ten employees (micro businesses).

At the start of 2023:

- There were estimated to be 5.6 million UK private sector businesses.
- 1.4 million (26%) businesses had employees and 4.1 million (74%) did not employ anyone aside from the owner(s)
- There were 5.51 million small businesses (with 0 to 49 employees), 99.2% of the total business population.
- There were 36,900 medium-sized businesses (with 50 to 249 employees), 0.7% of the total business population.
- A further 8,000 businesses were large businesses (with 250 or more employees), 0.1% of the total business population.

[Business population estimates for the UK and regions 2023: statistical release - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/business-population-estimates-for-the-uk-and-regions-2023)

Data brought together on the working age population, published on 31 March 2023 shows that:

- 75% of working age people (16 to 64 year olds) in England, Scotland and Wales were employed in 2021
- 76% of white people were employed, compared with 67% of people from all other ethnic groups combined.
- The difference in the employment rates between the white ethnic group and all other ethnic groups combined went down by 7 percentage points between 2004 and 2021.
- The highest employment rate in 2021 was in the 'white other' ethnic group (82%).
- the lowest employment rate was in the combined Pakistani and Bangladeshi ethnic group (58%).

- between 2004 and 2021, the biggest employment rate increases were in the combined Pakistani and Bangladeshi ethnic group (from 44% to 58%) and the 'white other' ethnic group (from 71% to 82%).
- the highest employment rates for most ethnic groups were generally in the South and East of England – the lowest were generally in the North of England, Scotland, West Midlands, and Yorkshire and the Humber.

[Employment - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](https://www.gov.uk/government/statistics/ethnicity-facts-figures)

Private Rental sector data

The private rented sector accounts for 4.5 million homes, 19% of households in England. The sector has doubled in size since early 2000. The regions with the highest percentages of private rented homes, are London (29%), the South-West (18%) and Yorkshire and the Humber (19%).

The PRS provides a range of benefits for tenants, including flexibility and choice. Department for Levelling Up Housing and Communities (DLUHC) categorise the landlord population as either:

- good practice (30%),
- meeting legal requirements (24%),
- mixed compliance (35%)
- lower compliance and awareness (11%)

Private Rental Sector data on Landlords

There are an estimated 2.3 million landlords (and 19,000 letting agents) in England. Some are large corporates; others are individuals letting a property. According to the English Private Landlord Survey in 2021:

- 43% of landlords owned one rental property
- 39% owning two and four rental properties
- 18% owning five or more properties.

<https://www.gov.uk/government/statistics/english-private-landlord-survey-2021-main-report/english-private-landlord-survey-2021-main-report--2>

Main facts and figures on 'Renting from a private landlord', published in February 2020, showed that:

- White British households were less likely than most other ethnic groups to rent their home privately.
- in every socio-economic group and region, White British households were less likely to rent privately than those from all ethnic minorities combined.
- in every income band except for the lowest, White British households were less likely to rent privately than those from all ethnic minorities combined.

- in every age group except people aged 65 and over, White British householders were less likely to rent their home privately than households from all ethnic minority groups combined.

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

Nationality of Household Reference Person (HRP)

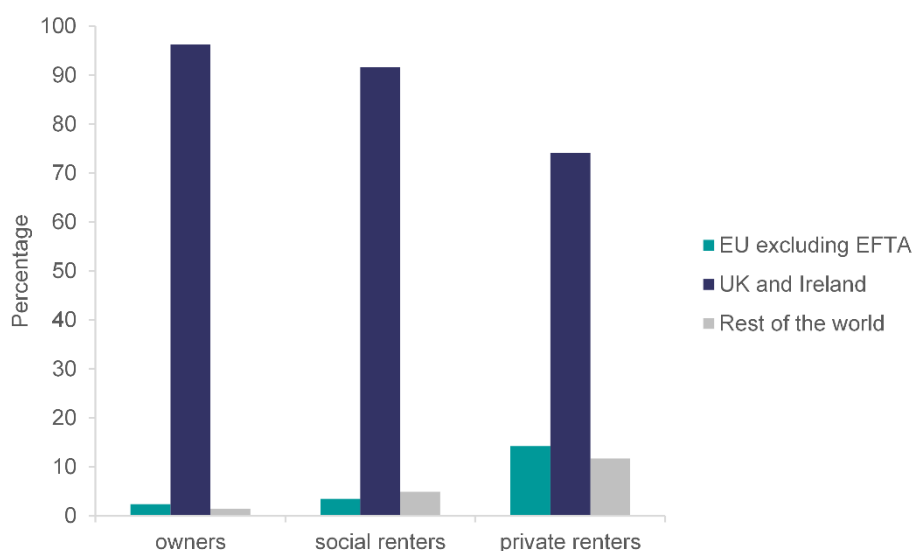
The private rented sector in 2021-22 had the lowest proportion of British and Republic of Ireland (ROI) HRPs compared to all other tenures. Nearly three quarters (74%) of private renters were from the UK and ROI, compared to 92% of social renters, and 96% of owner occupiers.

Conversely, the private rented sector had the highest proportion of HRPs from the EU (14%), compared to just 3% of social renters and 2% of owner occupiers.

Similarly, HRPs that were neither British/Irish or European nationality were more likely to be privately renting (12%) than to be either social renting (5%) or own their homes (1%), see below.

Compared to 4.5M properties within the private rental sector, this would indicate that over 1,150,000 properties are rented to nationals other than British and Irish.

Nationality of HRP by tenure, 2021-22



[English Housing Survey 2021 to 2022: private rented sector - GOV.UK \(www.gov.uk\)](https://www.gov.uk/english-housing-survey-2021-to-2022-private-rented-sector)

This data displays that 74% of the private rental sector properties are rented by British and Irish nationals and the remaining 26% were either European or other nationality.

In comparative to social renters and owners of properties the data shows that non UK nationals are more likely to rent in the private rental sector.

Home Office Online service data

On 25 November 2020, the Home Office launched the right to rent online checking service. Currently, the online checking service supports checks in respect of those who hold:

- A current biometric residence permit
- A current biometric residence card
- Status issued under the EU Settlement Scheme
- A digital Certificate of Application to the EU Settlement Scheme
- Status issued under the points-based immigration system
- British National (Overseas) (BN(O)) visa
- A current frontier worker permit (FWP)
- Some individuals who have made an in-time application whilst the decision is outstanding

Home Office data shows that landlords have conducted 919,104 immigration checks for time limited migrants in between Q3 2022 and Q2 2023 using the Home Office digital system. These checks are web hits and can be from the same individual. Though this does not reflect the totality of all the checks, as the scheme allows other methods that are not recorded to be undertaken, it does provide a significant reflection that landlords are conducting relevant checks.

Quarter	Number of tenant profile views ³	Number of landlord profile views ⁴
2020 Q4	7,704	922
2021 Q1	29,118	5,624
2021 Q2	50,765	14,402
2021 Q3	173,069	87,910
2021 Q4	150,657	95,037
2022 Q1	165,872	82,545
2022 Q2	279,434	186,061
2022 Q3	384,177	246,039
2022 Q4	330,820	215,532
2023 Q1	372,580	232,634
2023 Q2	359,991	224,899

Home Office data shows that employers have conducted 16,020,730 immigration checks for time limited migrants in between Q3 2022 and Q2 2023 using the Home Office digital system. Though this does not reflect the totality of all the checks, as the scheme allows other methods that are not recorded to be undertaken, it does provide a significant reflection that employers are conducting relevant checks.

Quarter	Number of job seeker profile views ¹¹	Number of employer profile views ¹²
2019 Q1	46,189	11,135
2019 Q2	82,260	14,970
2019 Q3	112,486	20,033
2019 Q4	86,198	24,355
2020 Q1	113,012	33,281
2020 Q2	67,792	20,538
2020 Q3	111,701	34,989
2020 Q4	296,706	90,974
2021 Q1	415,457	140,128
2021 Q2	733,477	271,321
2021 Q3	1,091,105	550,227
2021 Q4	1,196,508	618,051
2022 Q1	1,262,780	657,526
2022 Q2	1,796,198	1,325,323
2022 Q3	1,944,110	1,448,061
2022 Q4	2,147,378	1,774,017
2023 Q1	2,317,902	1,805,559
2023 Q2	2,199,471	1,745,189

Further Information can be found at:

[Home Office data: Q2 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/data-requests/home-office-data-q2-2023)

Enquiries about the Schemes

Since January 2020 the department has received 1140 enquiries relating to the Right to Work Scheme and 292 enquiries relating to the Right to Rent Scheme. We have not been informed of any identified instances of direct discrimination through the requirements of the schemes.

Legislation, Data and Guidance Evidence

The summary of evidence listed below includes data from the following:

- Immigration, Asylum and Nationality Act 2006
<https://www.legislation.gov.uk/ukpga/2006/13/contents>
- The Right to Work 2007 Order
<https://www.legislation.gov.uk/uksi/2007/3290/introduction/made>
- Immigration Act 2014
<https://www.legislation.gov.uk/ukpga/2014/22/contents/enacted>
- The Immigration (Residential Accommodation) (Prescribed Requirements and Code of Practice) Order 2014
<https://www.legislation.gov.uk/uksi/2014/2874/contents/made>

- The Right to Work Maximum penalty order
<https://www.legislation.gov.uk/uksi/2014/1262/made>
- Immigration Act 2016
<https://www.legislation.gov.uk/ukpga/2016/19/contents/enacted>
- The Illegal Working Compliance Orders 2016
<https://www.legislation.gov.uk/uksi/2016/1058/contents/made>
- Licensing Act 2003 (Personal licenses) Regulations 2005 and the Licensing Act 2003 (Premises licenses and club premises certificates) Regulations 2005
<https://www.legislation.gov.uk/uksi/2018/1381/contents/made>
<https://www.legislation.gov.uk/uksi/2005/41/contents>
- The Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) (Amendment) Order 2020
<https://www.legislation.gov.uk/uksi/2020/1047/contents/made>
- Phase 1 evaluation of the Right to Rent scheme which took place six months after the Scheme's implementation in December 2014. This evaluation was of the initial phase of the operation in the West Midlands
[Evaluation of the Right to Rent scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/evaluation-of-the-right-to-rent-scheme),
- Phase 2 evaluation of the Right to Rent scheme which took place in March 2021, with the findings published on 9 February 2023. All elements of landlord evaluation and overall reporting were carried out independently by BVA BDRC, an international consumer and business insight consultancy. The central research question was whether the Scheme leads to unlawful race discrimination.
[Right to Rent scheme: Phase two evaluation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/right-to-rent-scheme-phase-two-evaluation)
- Equality Impact Assessments - Digital right to work and rent checks for British and Irish citizens - 2 November 2021- 10 February 2022
<https://www.gov.uk/government/publications/digital-right-to-work-and-rent-checks-for-british-and-irish-citizens-equality-impact-assessments>
- Code of Practice on preventing illegal working: civil penalty scheme for employers - 6 April 2022
<https://www.gov.uk/government/publications/illegal-working-penalties-codes-of-practice-for-employers-2018>
- Code of Practice for employers: avoiding unlawful discrimination while preventing illegal working - 6 April 2022
<https://www.gov.uk/government/publications/illegal-working-penalties-codes-of-practice-for-employers-2018>
- Code of Practice on Right to Rent
[https://www.gov.uk/government/publications/right-to-rent-landlords-code-of-practice/code-of-practice-on-right-to-rent-civil-penalty-scheme-](https://www.gov.uk/government/publications/right-to-rent-landlords-code-of-practice/code-of-practice-on-right-to-rent-civil-penalty-scheme)

[for-landlords-and-their-agents-in-force-from-6-april-2022-accessible-version](#)

- [Code of Practice for Landlords, in force from 6 April 2022 \(publishing.service.gov.uk\) \(avoiding unlawful discrimination\)](#)
- [Landlords guide to right to rent checks: 6 April 2022](#)
- [Right to work checks and employers guide: 6 April 2022](#)
- The 2011 Census data
https://www.nomisweb.co.uk/sources/census_2011The 2011 Census data- https://www.nomisweb.co.uk/sources/census_2011
- The 2021 Census data
[Phase one - Census 2021 topic summaries - Census 2021](#)
- Public opinion of the Compliant Environment
<https://yougov.co.uk/topics/politics/articles-reports/2018/04/27/where-public-stands-immigration>
- Reform of the Clandestine Entrant Civil Penalty Scheme - EIA
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1135937/CECP - EIA Jan 2023.pdf#:~:text=The%20Scheme%20as%20it%20currently%20operates%20means%20that,aggregate%20of%20%C2%A34%2C000%20in%20total%20per%20clandestine%20entrant.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1135937/CECP_-_EIA_Jan_2023.pdf#:~:text=The%20Scheme%20as%20it%20currently%20operates%20means%20that,aggregate%20of%20%C2%A34%2C000%20in%20total%20per%20clandestine%20entrant.)

Public Sector Equality Duty:

The Public Sector Equality Duty is set out in s149(1) of the Equality Act 2010, which states that a public authority, in the exercise of its functions, must have due regard to the need to:

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

Under section 149 of 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
- marriage and civil partnership (this final characteristic is only required to be considered in relation to the first limb of the public sector equality duty and only in the context of employment)

Exceptions within the Equality Act

Schedule 18 of the Equality Act sets out exceptions to the Public Sector Equality Duty. In relation to the exercise of immigration and nationality functions, s149(1)(b) – advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it – does not apply to the protected characteristics of age, race (insofar 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, disability, ethnic or national origins, or place or duration of residence in certain circumstances. This includes where the discrimination is authorised by the Immigration Rules. For example, the points-based system which replaced the former work permit arrangements can discriminate on the basis of nationality in determining whether migrants from outside the European Economic Area and Switzerland should be given permission to work in the United Kingdom and the NHS can charge some people who are not ordinarily resident in the United Kingdom for hospital treatment.

However, although those provisions of the Equality Act 2010 mean that direct discrimination in such circumstances is lawful, the justification for any such discrimination has been considered. 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.

No evidence of unlawful discrimination, harassment or victimisation of any group has been identified during the course of our analysis. However, if there are instances identified where individuals of a certain protected characteristic are likely to be more impacted by the proposed changes. Further detail is below.

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

Age

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of age. There is no evidence to indicate that those falling within a particular age group will be affected by the policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of age. There is no evidence to indicate that those falling within a particular age group will be affected by the policy proposal.

Disability

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of disability. There is no evidence to indicate that those with a particular disability will be affected by the policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of disability. There is no evidence to indicate that those falling within a particular disability will be affected by the policy proposal.

Reasonable Adjustments

The rules considered here apply regardless of this protected characteristic. As a result, there is no direct impact based on this characteristic and no indirect impact has been identified at the present time. When the proposals are implemented, any emerging impacts not identified at this stage will be recorded and analysed when the Equality Impact Assessment is reviewed.

Gender Reassignment

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of gender reassignment. There is no evidence to indicate that those falling within the protected characteristic of gender reassignment will be directly affected by this policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of gender reassignment. There is no evidence to indicate that those falling within the protected characteristic of gender reassignment will be indirectly affected by this policy proposal.

Marriage and Civil Partnership

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of marriage and civil partnership. There is no evidence to indicate that those falling within the protected characteristic of marriage and civil partnership will be directly affected by this policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of marriage and civil partnership. There is no evidence to indicate that those falling within the protected characteristic of marriage and civil partnership will be indirectly affected by this policy proposal.

Pregnancy and Maternity

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of pregnancy and maternity. There is no evidence to indicate that those falling within the protected characteristic of pregnancy and maternity will be directly affected by this policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of pregnancy and maternity. There is no evidence to indicate that those falling within the protected characteristic of pregnancy and maternity will be indirectly affected by this policy proposal.

Race (colour, nationality, ethnic or national origins)

Colour

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis colour. There is no evidence to indicate that those falling within the protected characteristic of colour will be directly affected by this policy proposal.

Indirect Discrimination

Non-compliant employers and Landlords (including letting agents)

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of colour of non-compliant employers and landlords (including letting agents). There is no evidence to indicate that those falling within the protected characteristic of colour will be indirectly affected by this policy proposal.

Illegal migrants

The Schemes aim to prevent illegal migrants from accessing employment in the UK and residential accommodation in the private rental sector in England. Increases to the maximum civil penalty amounts could deter non-compliant employers and landlords (including letting agents) from employing and renting

to illegal migrants, further deterring people from attempting to come to the UK illegally.

Lawful migrants entering the UK

This may have an indirect effect on those seeking to come to the UK lawfully as employers/landlords (including letting agents) may favour to employ and rent to British and Irish nationals who they see as 'low risk' as they do not have time limited leave and do not require further checks. The lawful migrant may therefore choose not to enter the UK.

The Home Office has published statutory codes of practice on GOV.UK for employers and landlords (including letting agents) on how to avoid unlawful discrimination when undertaking checks. This guidance clearly stipulates that employers and landlords (including letting agents) are advised to provide individuals with every opportunity to demonstrate their right to work or rent, and should not discriminate on the basis of nationality, or any of the other protected characteristics. It is clear that those who discriminate are breaking the law. Employers, landlords and letting agents are encouraged to familiarise themselves with published guidance and the statutory codes of practice available on GOV.UK.

It is considered that any indirect discrimination in this limb is justified as a proportionate means of achieving a legitimate aim. Namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation and seeking compliance with legislation.

Nationality

Direct Discrimination

The Schemes apply to employers and landlords (including letting agents) of all nationalities. The Home Office does not consider there to be any direct discrimination in this limb on the basis of the nationality of non-compliant employers and landlords (including letting agents).

Indirect Discrimination

Non-compliant employers and Landlords (including letting agents)

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of nationality of non-compliant employers and landlords (including letting agents). There is no evidence to indicate that those falling within the protected characteristic of nationality will be indirectly affected by this policy proposal.

Illegal migrants

The Schemes disqualify illegal migrants working in the UK and renting in the private sector in England. It is likely that changes to the policy will have a

disproportionate impact on those in certain nationality groups. The civil penalty amount will deter non-compliant employers and landlords (including letting agents) from employing and renting to illegal migrants, further deterring people from attempting to come to the UK illegally.

Lawful migrants entering the UK

This may have an indirect effect on those seeking to come to the UK lawfully as employers/landlords (including letting agents) may favour to employ and rent to British and Irish nationals 'who they see as 'low risk' as they do not have time limited leave and do not require further checks. The lawful migrant may therefore choose not to enter the UK.

The Home Office has published statutory codes of practice on GOV.UK for employers and landlords (including letting agents) on how to avoid unlawful discrimination when undertaking checks. This guidance clearly stipulates that employers and landlords (including letting agents) are advised to provide individuals with every opportunity to demonstrate their right to work or rent, and should not discriminate on the basis of nationality, or any of the other protected characteristics. It is clear that those who discriminate are breaking the law. Employers, landlords and letting agents are encouraged to familiarise themselves with published guidance and the statutory codes of practice available on GOV.UK.

It is considered that any indirect discrimination in this limb is justified as a proportionate means of achieving a legitimate aim, namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation and seeking compliance with legislation.

Ethnic or national origins

Direct Discrimination

The Schemes apply to employers and landlords (including letting agents) on ethnic or national origins. The Home Office does not consider there to be any direct discrimination in this limb on the basis of the ethnic or national origins of non-compliant employers and landlords (including letting agents).

Indirect Discrimination

Non-compliant employers and Landlords (including letting agents)

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of ethnic or national origins of non-compliant employers and landlords (including letting agents). There is no evidence to indicate that those falling within the protected characteristic of ethnic or national origins will be indirectly affected by this policy proposal.

Illegal migrants

The Schemes disqualify illegal migrants working in the UK and renting in the private sector in England. It is likely that changes to the policy will have an impact on those nationals seeking and entering the UK illegally as the civil penalty will deter non-compliant employers and landlords (including letting agents) from engaging in employing and renting to illegal migrants, further deterring people from attempting to come to the UK illegally.

Lawful migrants entering the UK

This may have an indirect effect on those seeking to come to the UK lawfully as employers/landlords (including letting agents) may favour to employ and rent to British and Irish nationals 'who they see as 'low risk' as they do not have time limited leave and do not require further checks. The lawful migrant may therefore choose not to enter the UK.

It is considered that any indirect discrimination in this limb is justified as a proportionate means of achieving a legitimate aim, namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation and seeking compliance with legislation.

Religion or Belief

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of religion and belief. There is no evidence to indicate that those falling within the protected characteristic of religion and belief will be affected by this policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of religion and belief. There is no evidence to indicate that those falling within the protected characteristic of religion and belief will be affected by this policy proposal.

Sex

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of sex. There is no evidence to indicate that those falling within the protected characteristic of sex will be affected by this policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of sex. There is no evidence to indicate that those falling within the protected characteristic of sex will be affected by this policy proposal.

Sexual Orientation

Direct Discrimination

The Home Office does not consider there to be any direct discrimination in this limb on the basis of sexual orientation. There is no evidence to indicate that those falling within the protected characteristic of sexual orientation will be affected by this policy proposal.

Indirect Discrimination

The Home Office does not consider there to be any indirect discrimination in this limb on the basis of sexual orientation. There is no evidence to indicate that those falling within the protected characteristic of sexual orientation will be affected by this policy proposal.

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

In relation to the exercise of immigration and nationality functions, this does not apply to the protected characteristics of age or race (except for colour). In respect of the protected characteristics of disability, religion or belief, gender reassignment, pregnancy and maternity, sex and sexual orientation, these proposals are considered likely to be neutral as regards advancing equality of opportunity. The policy does enable all those legally present in the UK to have access to employment and the private rented sector, which may have been taken by those who do not have the correct permission to stay in the UK.

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

Age – The Home Office does not believe that increasing the maximum civil penalty for employers and landlords (including letting agents) will adversely affect good relationships between people who share this protected characteristic and those who don't.

Disability – The Home Office does not believe that increasing the maximum civil penalty for employers and landlords (including letting agents) will adversely affect good relationships between people who share this protected characteristic and those who don't.

Gender Reassignment – The Home Office does not believe that increasing the maximum civil penalty for employers and landlords (including letting agents) will adversely affect good relationships between people who share this protected characteristic and those who don't.

Maternity and Pregnancy – The Home Office does not believe that increasing the maximum civil penalty for employers and landlords (including letting agents) will adversely affect good relationships between people who share this protected characteristic and those who don't.

Race (Nationality)- The Home Office does not believe our policy proposals will impact on the relations between those who share the protected characteristic,

and those who don't share it. The increased maximum civil penalties apply directly to non-compliant employers and landlords (including letting agents). Any indirect impact of the proposals would apply to all nationals, including British nationals.

Race (Colour, Ethnic or national origins)- Although the Schemes apply to all nationalities (including British nationals) - there is a perception employers / landlords (including letting agents) may discriminate against individuals on the basis of colour, ethnic or national origins (i.e. even if they are a British national, but it is perceived on the basis of their colour / ethnicity that it would be risky to employ and/or rent to them). The Home Office believes the policy proposals could have an indirect impact on the relations between people who share the protected characteristic and those who do not. However, the Schemes are designed to ensure that employers / landlords (including letting agents) do not discriminate on the basis of colour / ethnicity by provision for the statutory codes of practice on preventing unlawful discrimination. Any indirect impact is the result of an employer or landlord choosing to discriminate for which a remedy is likely to be available to the individual under the Equality Act 2010.

Religion or Belief – The Home Office does not believe that increasing the maximum civil penalty for employers and landlords (including letting agents) will adversely affect good relationships between people who share this protected characteristic and those who don't.

Sex – The Home Office does not believe that increasing the maximum civil penalty for employers and landlords (including letting agents) will adversely affect good relationships between people who share this protected characteristic and those who don't.

Sexual Orientation – The Home Office does not believe that increasing the maximum civil penalty for employers and landlords (including letting agents) will adversely affect good relationships between people who share this protected characteristic and those who don't.

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

Protected Characteristic Group	Potential for Positive or Negative Impact?	Explanation	Action to address negative impact
Age	Neutral	The Right to Work Scheme applies to all those over the age of 16. The Right to Rent Scheme applies to all adults aged 18 and over who enter into a private tenancy agreement covered by the Scheme. This is because government issued guidance advises that it is unlikely anyone under the age of 18 would be able to enter into a tenancy agreement. The Home Office does not envision any impact in respect of this protected characteristic.	Not applicable
Disability	Neutral	The Rules considered here apply regardless of this protected characteristic. As a result, there is no direct impact based on this characteristic and no indirect impact has been identified at the present time. When the proposals are implemented, any emerging impacts not identified at this stage will be recorded and analysed when the Equality Impact Assessment is reviewed.	Not applicable
Gender Reassignment	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Schemes applies to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated.	Not applicable
Marriage and Civil Partnership	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Schemes applies to everyone. Therefore, there should be no difference in how individuals	Not applicable

		who share this protected characteristic are treated.	
Pregnancy and Maternity	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Schemes apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated.	Not applicable
Race (colour, nationality, Ethnic or natural origins)	Potential negative	There is seen to be an impact in respect of the protected characteristic of race, as non-British and Irish nationalities will be affected more frequently by changes in policy. This could also impact on the obligation to foster good relations.	<p>The Home office does have published codes of practice in place for employers and landlords (including letting agents) on how to avoid unlawful discrimination when undertaking checks. This guidance clearly stipulates that employers and landlords (including letting agents) are advised to provide individuals with every opportunity to demonstrate their right to work or rent, and should not discriminate on the basis of nationality, or any of the other protected characteristics. We are clear that those who discriminate are breaking the law.</p> <p>The Government will continue to authorise differential treatment on the grounds of nationality as a necessary and justified part of operating an immigration the system for the UK.</p> <p>The people who will be impacted by the increase in civil penalties policy change are defined by migration patterns. Therefore it is possible that relations between the wider public and people subject to the compliant environment measures could be strained, where race is directly linked to nationality. The Home Office will continue to keep this under review.</p>
Religion or Belief	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Schemes apply to everyone. Therefore, there	Not applicable

		should be no difference in how individuals who share this protected characteristic are treated.	
Sex	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Schemes apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated.	Not applicable
Sexual Orientation	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Schemes apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated.	Not applicable

5. In light of the overall policy objective, are there any ways to avoid or mitigate any of the negative impacts that you have identified above?

The Home office does have published codes of practice in place for employers and landlords (including letting agents) on how to avoid unlawful discrimination when undertaking checks. This guidance clearly stipulates that employers and landlords (including letting agents) are advised to provide individuals with every opportunity to demonstrate their right to work or rent, and should not discriminate on the basis of nationality, or any of the other protected characteristics. We are clear that those who discriminate are breaking the law.

The Government will continue to authorise differential treatment on the grounds of nationality as a necessary and justified part of operating an immigration the system for the UK.

The people who will be impacted by the increase in civil penalties policy change are defined by migration patterns. Therefore, it is possible that relations between the wider public and people subject to the compliant environment measures could be strained, where race is directly linked to nationality. The Home Office will continue to keep this under review.

6. Review date: 1 November 2024

7. Declaration

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

SCS sign off:

Name/Title: Rebecca Nugent

Directorate/Unit: Compliant Environment and Enforcement Unit

Lead contact: Jane Donnelly

Date: 1 November 2023

For monitoring purposes all completed EIA documents and updated EIAs **must** be sent to the PSED@homeoffice.gov.uk

Date sent to PSED Team: 1 November 2023