



## Equality Impact Assessment [EIA]

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

#### **Title: Border Security, Asylum and Immigration Bill**

Following the King's Speech on 17 July 2024<sup>1</sup>, the Government has introduced the Border Security, Asylum and Immigration Bill ("the Bill") to create a framework of new and enhanced powers and offences to improve UK border security and to strengthen the asylum and immigration system.

Collectively, the provisions within the Bill reinforce, strengthen, and connect capabilities across the relevant government and law enforcement partners which make up the UK's border security system.

The Bill provides the framework which enables the Border Security Commander, and the Border Security Command (BSC), to fulfil their role as the border security system leader, cohering and driving improvements to the collective response to current and future threats, starting with organised immigration crime (OIC). The legislation puts the Border Security Commander's responsibilities onto a statutory footing.

The Bill creates an array of new, stronger powers for law enforcement agencies to deal with, investigate and prosecute OIC, and it provides additional deterrents and penalties for criminals involved in OIC. The Bill will:

- Expand data-sharing capabilities to assist in developing the intelligence picture of OIC;
- Enable smarter, faster and more effective interventions to protect UK border security and to bring those involved in OIC to justice;
- Improve understanding of how and why OIC happens.

The Bill introduces new and enhanced tools which will allow faster interventions against those suspected of being involved in serious and organised crime. The strengthening of Serious Crime Prevention Orders (SCPOs), including the introduction of new interim orders, will mean offenders will be more closely managed in UK communities, breaking known links to Organised Crime Groups (OCGs) and keeping the streets safe.

The Bill enables action to be taken against individuals whose actions whilst travelling to the UK on a small boat result in the risk of serious injury or death to others and travels onto the UK regardless without the required entry clearance or immigration permission.

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<sup>1</sup> [The King's Speech 2024 - GOV.UK](https://www.gov.uk/the-king-s-speech-2024)

Finally, the Bill introduces new, additional measures to support and strengthen a properly functioning UK immigration and asylum system. The Bill repeals the Safety of Rwanda (Asylum and Immigration) Act (SoRA 2024) and repeals parts of the Illegal Migration Act 2023.

This EIA considers the Bill as introduced in Parliament and any further considerations will be made as necessary if the provisions that ultimately become law, subject to Parliament's approval, are substantively different.

The proposed measures in the Bill fall into four pillars:

**Pillar 1: Establishing the framework within which the Border Security Command (BSC) will operate**

- a) The Bill will place the role of Border Security Commander on a statutory footing, exercising statutory functions directly conferred on them by the Bill.
- b) The Bill will provide the framework within which the BSC will operate, acting as the system leader for border security.

**Pillar 2: Expansion of data sharing capabilities to assist in developing the intelligence picture of OIC and other threats**

- a) The Bill will allow the Driver and Vehicle Licensing Agency (DVLA) to disclose trailer registration information with the Home Office and other agencies to identify and risk assess trailers, including to prevent fatalities.
- b) The Bill will provide simplified data sharing processes for His Majesty's Revenue and Customs (HMRC) to share data with the Home Office for immigration, customs, policing, national security or safeguarding purposes.

**Pillar 3: Creating new and enhanced powers to strengthen border security**

- a) The Bill will introduce enhanced powers and offences to enable law enforcement to pursue, disrupt and deter OIC. This will facilitate earlier intervention in OIC, including through disrupting supply chains for items used in OIC. These powers/offences are:
  - New offence of taking specified actions (collect, possess, view or access information) in circumstances giving rise to a reasonable suspicion of a connection with an offence under section 24 of the Immigration Act 1971;
  - New offence of supplying, offering to supply or handling items suspected of being for use in OIC, where the supplier suspects that the item will be used in an offence under section 24 or section 25 of the Immigration Act 1971;
  - Enhancing current powers for immigration officers/roadside police officers to seize, retain, copy and extract information or evidence

from electronic devices in relation to offences under section 25 or 25A of the Immigration Act 1971.

- b) The Bill creates a new aggravated offence under section 24 of the Immigration Act 1971, to deter and address the risk of fatalities in sea crossings by enabling the prosecution of individuals whose actions whilst travelling to the UK on a small boat result in the risk of serious injury or death to others and travels onto the UK regardless.
- c) The Bill will make changes to Serious Crime Prevention Orders (SCPOs) to improve law enforcement's ability to take preventative action to manage offenders and protect communities. This includes introducing new Interim Serious Crime Prevention Orders (ISCPOs) so law enforcement can take immediate action whilst determining the application for a full SCPO.
- d) The Bill will introduce new criminal offences criminalising the making, adapting, importing, supplying, offering to supply or possession of specified articles for use in serious crime. The specified articles are:
  - templates for 3D-printed firearms components;
  - pill presses and encapsulators; and
  - vehicle concealments.
- e) The Bill amends counter-terrorism (CT) port powers (Schedule 7 to the Terrorism Act 2000 and Schedule 3 to the Counter-Terrorism and Border Security Act 2019) to allow the police to take biometrics at a port in Scotland, bringing Scotland into alignment with the position across England, Wales, and Northern Ireland.

#### **Pillar 4: Introducing measures to support and strengthen the UK's Asylum and Immigration System**

- a) The Bill will repeal parts of the Illegal Migration Act 2023, retaining certain measures where there is potential operational benefit.
- b) The Bill will repeal the Safety of Rwanda (Asylum and Immigration) Act (SoRA) 2024.
- c) The Bill will confirm the Home Office's ability to detain someone subject to deportation from the point at which the Home Office serves notification of the intention to deport.
- d) The Bill will make changes relating to the Immigration Services Commissioner (ISC) to ensure it can provide effective regulation for immigration advice.
- e) The Bill will expand the ability to take biometric information to additional trained people, to reduce risk of delaying or missing capture of biometric data.

- f) The Bill will provide for collection of biometric data outside of a visa application process, to facilitate the exit from a country or territory (including but not limited to crisis or evacuation scenarios).
- g) The Bill will provide validation of fees charged in relation to qualifications, in connection with certain services provided by a third-party supplier on behalf of the Home Office and the Department for Education.

### *Illegal Migration Act 2023*

A separate EIA was produced in the development of the Illegal Migration Act (IMA) 2023 and is available at:

<https://www.gov.uk/government/publications/illegal-migration-bill-overarching-documents/equality-impact-assessment-accessible>.

The Bill will repeal all of the Illegal Migration Act 2023 except the measures below, which will be retained:

Section 12 – Period for which persons may be detained

Section 29 – Disapplication of modern slavery provisions

Section 52 – Judges of First-tier Tribunal and Upper Tribunal

Section 59 – Inadmissibility of certain asylum and human rights claims

Section 60 – Cap on number of entrants using safe and legal routes

Section 62 – Credibility of claimant: concealment of information etc

Most of the provisions to be retained are already in force (see exceptions below), and therefore the Bill does not constitute policy change and the Home Office does not consider there to be additional equalities considerations for those provisions at this stage.

Section 29 of the Illegal Migration Act 2023 (Disapplication of modern slavery provisions) has not been commenced. Further equalities considerations would be made at such a time that the provisions are commenced.

Section 59 of the same Act (Inadmissibility of certain asylum and human rights claims) has partially commenced. Further equalities considerations would be made as needed with any further commencement of the provisions.

The Bill includes provision in connection with the repeal of provisions in the Illegal Migration Act 2023 to ensure that any permission granted prior to the commencement of The Illegal Migration Act 2023 (Amendment) Regulations 2024 is valid. The effect is to maintain existing permission, which therefore does not constitute policy change and the Home Office does not consider there to be additional equalities considerations since the Illegal Migration Act 2023 was approved by Parliament.

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

- Road Haulage Association’s *Attract, Train & Retain, A skills manifesto for the road transport industry* published July 2023.

- Domestic road freight statistics (Gov.uk)  
<https://www.gov.uk/government/statistics/domestic-road-freight-statistics-july-2021-to-june-2022/domestic-road-freight-statistics-july-2021-to-june-2022>
- Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK <https://www.gov.uk/government/collections/national-referral-mechanism-statistics>
- *Customs Importer and Exporter Population 2023* (Gov.uk) [Customs Importer and Exporter Population 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/customs-importer-and-exporter-population-2023).
- The following data sources were used to provide an indicative picture of the cohort of individuals who may be impacted by serious organised crime measures:
  - Offending population statistics from the Ministry of Justice's (MOJ) [Criminal Justice System Statistics Quarterly](#)<sup>2</sup> release.
  - Her Majesty's Courts and Tribunals Service (HMCTS) data on individuals who receive SCPOs<sup>3</sup>.
- Jonathan Hall KC, 'Terrorism Acts in 2022: Report of the Independent Reviewer on the Operation of the Terrorism Acts 2000 and 2006, and the Terrorism Prevention and Investigation Measures Act 2011' (November 2024)<sup>4</sup>
- Jonathan Hall KC, 'Terrorism Acts in 2020: Report of the Independent Reviewer on the Operation of the Terrorism Acts 2000 and 2006, and the Terrorism Prevention and Investigation Measures Act 2011' (April 2022)<sup>5</sup>.
- Jonathan Hall KC, [Independent Reviewer of Terrorism Legislation: Report on the use of Schedule 7 powers against Ernest Moret](#), (July 2023).
- MI5, [Director General Ken McCallum gives latest threat update | MI5 - The Security Service](#).
- [Ethnicity and religion by age - Office for National Statistics \(ons.gov.uk\)](#).
- Public data on use of Schedule 7 (CT powers) can be found [at this publication](#).<sup>6</sup>
- Treaty between the UK and Rwanda - [Agreement between UK and Rwanda for the provision of an asylum partnership to strengthen internal commitments on the protection of refugees and migrants \(publishing.service.gov.uk\)](#)
- Safety of Rwanda (Asylum and Immigration) Act: supporting documents including the Country Information Notes:  
<https://www.gov.uk/government/publications/safety-of-rwanda-asylum-and-immigration-bill-supporting-evidence>.

<sup>2</sup> Ministry of Justice, Criminal justice system statistics quarterly: December 2023: [Criminal Justice System statistics quarterly: December 2023 - GOV.UK](#)

<sup>3</sup> This is the first release of this data and it is a subset of the published Accredited Official Statistics series Criminal Justice Statistics Quarterly (CJSQ) which are available here: <https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>. The data is unpublished management information and has not been quality assured to the same standards as the wider CJSQ release but is important to the equalities impact assessment.

<sup>4</sup> [The Terrorism Acts in 2022 - GOV.UK \(www.gov.uk\)](#)

<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1071570/IRTL\\_Report\\_Terrorism\\_Acts\\_in\\_2020](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071570/IRTL_Report_Terrorism_Acts_in_2020)

<sup>6</sup> Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes, and stop and search, Great Britain, quarterly update to September 2024. 12.12.2024.

- The Safety of Rwanda (Asylum and Immigration) Act: these documents relate to the safety of Rwanda (including Policy Statement published January 2024: [The Safety of Rwanda \(Asylum and Immigration\) Bill - GOV.UK \(www.gov.uk\)](#))
- Equality Act 2010 - <https://www.legislation.gov.uk/ukpga/2010/15/contents>
- Article 3 of the ECHR [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)
- Ilias and Ahmed v Hungary, (Application no. 47287/15; judgment 21 November 2019), paras 139 – 14. [https://hudoc.echr.coe.int/eng#{"itemid":\["001-198760"\]}](https://hudoc.echr.coe.int/eng#{)
- Section 55 the Borders, Citizenship and Immigration Act 2009 - <https://www.legislation.gov.uk/ukpga/2009/11/section/55>
- AM (Zimbabwe) [2020] UKSC 17. <https://www.supremecourt.uk/cases/docs/uksc-2018-0048-judgment.pdf>.
- MEDP Published Equality Impact Assessment
- [Migration and Economic Development Partnership with Rwanda: equality impact assessment - GOV.UK \(www.gov.uk\)](#)
- [Irregular migration statistics to the UK \(including small boat statistics\): year ending september 2023/irregular-migration-to-the-uk-year-ending-september-2023](#)
- Publicly available official data sets - [How many people are detained or returned? - GOV.UK \(www.gov.uk\)](#)
- Home Office Immigration Enforcement Transparency Data - [Immigration Enforcement data: Q2 2024 - GOV.UK \(www.gov.uk\)](#)
- The Detention Centre Rules 2001 [The Detention Centre Rules 2001 \(legislation.gov.uk\)](#) and Short-term Holding Facility Rules 2018 [The Short-term Holding Facility Rules 2018 \(legislation.gov.uk\)](#)
- The Home Office's Adults at Risk Guidance [Adults at risk in immigration detention](#)<sup>7</sup> and guidance on the detention of pregnant women<sup>8</sup>.
- [Detention General instructions \(publishing.service.gov.uk\)](#)
- The Home Office Visas and Nationality Service data (October 2020-October 2024)<sup>9</sup>.

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

The Bill makes changes with the aim of strengthening border security and reducing cross-border threats, including organised immigration crime. As part of this, the intention is to reduce dangerous journeys and the threat to human life that they pose. On that basis, the Home Office expects there will be positive impacts through enhanced safety and security, and reduced serious and organised crime, including organised immigration crime.

<sup>7</sup> <https://www.gov.uk/government/publications/adults-at-risk-in-immigration-detention>

<sup>8</sup> <https://www.gov.uk/government/publications/pregnant-women-in-detention>

<sup>9</sup> This data is limited and does not cover the full period that these services have been specified in the Home Office Immigration Rules or relevant nationality legislation.

The potential impacts identified in this EIA should be considered alongside this broad aim. All of the identified impacts are considered justified as proportionate in view of the overall aims and positive impacts they are expected to produce, and mitigations have been put in place where possible to address potential negative impacts.

The Home Office has considered all measures proposed within the Bill in terms of direct and indirect discrimination and the potential for disproportionate negative impact on the basis of a protected characteristic.

Where available data indicates potential impact on the basis of a protected characteristic, this is set out below. Where a particular measure is not mentioned, it is because no such impact has been identified.

## **Age**

### Direct Discrimination

Amendments to **Serious Crime Prevention Orders (SCPOs)** will directly discriminate on the basis of the protected characteristic of age. All the proposals relating to SCPOs will only impact individuals aged 18 years and over as SCPOs cannot be imposed on an individual under the age of 18 (as per section 6 of the Serious Crime Act 2007).

As per section 13(2) of the Equality Act 2010, direct discrimination on the basis of age can be justified if it is a proportionate means of achieving a legitimate aim. SCPOs can impose stringent conditions on individuals, and it is considered that children who commit serious offences have different needs to adults, and therefore a different criminal justice response is more appropriate.

Amendments to allow **collection of biometric data outside of a visa application process** will have differential effect based on age. Specifically, children under five will only need to provide a facial image, because their fingerprints are generally too small to be easily automatically matched; and children under 16 require the presence of a responsible adult. This is not expected to constitute negative impact and is justified under section 13(2) of the Equality Act 2010 for practical and safeguarding reasons.

### Indirect Discrimination

According to the Road Haulage Association's *Attract, Train & Retain, A skills manifesto for the road transport industry* published July 2023, the average age of an HGV driver is 51<sup>10</sup>. On that basis, **DVLA data sharing** measures are more likely to affect those of that age. However, the Home Office does not expect this to constitute negative impact except where addressing non-compliance or criminal activity and is justified on the basis of law enforcement

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<sup>10</sup>

[https://www.rha.uk.net/Portals/0/PolicyCampaigning/RHA\\_ATandR%20document\\_230721.pdf?ver=2023-07-25-113248-347%C3%97tamp=1690281109299](https://www.rha.uk.net/Portals/0/PolicyCampaigning/RHA_ATandR%20document_230721.pdf?ver=2023-07-25-113248-347%C3%97tamp=1690281109299)

and protecting human life. This is considered justified as proportionate for the legitimate aim law enforcement and protecting human life.

Customs data relevant to **HMRC data sharing** measures will in the main relate to companies which are engaged in international trade. Those associated with such companies are more likely to be adults. This means that, to the extent that information shared is capable of identifying individuals, it is more likely that that information will be about adults. It may therefore be that once that information is operationalised, it is more likely that there will be an indirect impact on adults. However, any such impact is considered justified as proportionate for the legitimate aim law enforcement and protecting human life.

**Enhanced powers to seize, retain, copy and extract information from electronic devices** will apply where a device is i) found on an illegal entrant/arrival and ii) there are reasonable grounds to suspect the relevant person is in possession of a relevant article (anything which appears to contain information relating to a facilitation offence under section 25 or section 25A Immigration Act 1971). In the year ending September 2024, 25-39 year-olds comprised 40.0% of small boat arrivals, closely followed by those aged 18-24 (32.2%). On that basis, individuals in those age groups are more likely to be affected, but this is justified to protect migrants from exploitation from organised crime groups and disrupt OIC.

Under the new **aggravated offence under Section 24** of the Immigration Act 1971 relating to the endangerment of another during a sea crossing, there may be an indirect impact on children if their parents are prosecuted. Prosecutors will consider cases on their individual merits. However, this is a more general risk and is not unique to this new aggravated offence – it is a risk that is expected to exist for all criminal offences, i.e. where a parent commits and is prosecuted for a crime, the onward repercussions have an impact on any children they have (e.g. absence of a parent if in custody). In this particular case, there could conversely be a positive impact for children since the measure is intended to reduce dangerous behaviour that risks injury or fatality. Any impact is considered justified as proportionate for the legitimate aim of preventing crime and attempting to avoid injury and fatalities in these crossings.

Evidence used to provide an indicative picture of the cohort of individuals who may be impacted by changes to **SCPOs and new offences related to articles for use in serious crime** suggests that individuals in the age range of 30 – 39 are overrepresented in the cohort (31-34% compared to 13.7% of the general population of England and Wales in the 2021 census). This may result in this group being disproportionately impacted by these changes, but this is justified as a proportionate means to achieve a legitimate aim of targeting serious crime. The measures will have the positive effect of preventing harm. Any order imposed or any conviction under the measures will be carried out by a court following proper process and safeguards.

Schedule 7 powers – which includes the power to **take biometrics during a CT port examination** to determine an individual's involvement in terrorism – are used in accordance with the threat from terrorism. While the age of those



selected for examination under Schedule 7 is not recorded, data for those arrested for terrorism-related offences show that younger people are more likely to be involved in terrorism. It is possible that those stopped under Schedule 7 also reflect this trend which could indicate indirect discrimination in use of Schedule 7 but this is justified to counter the threat of terrorism. Additionally, the existing Schedule 7 Code of Practice sets out that the decision to examine someone must not be arbitrary or based on protected characteristics alone.

Providing **validation of fees charged in relation to qualifications**, may, in the case of the Home Office services, be more likely to affect those aged 16-35 based on data available of those using those services. No such data is available in relation to the Department for Education services. However, it is not expected that those individuals would be at a particular disadvantage. The changes mean all individuals will not be able to recover fees paid for services in the past, but they will have received the benefit of those services and the change is justified on the basis of ensuring effective use of taxpayer funds.

## **Disability**

### Direct Discrimination

No direct discrimination has been identified.

### Indirect Discrimination

There is potential that those with certain disabilities may be disproportionately impacted by **enhanced powers to seize, retain, copy and extract information from electronic devices**. This is because seizure of devices may be disproportionately impactful where the individual relies on the device for communication or other needs arising from a disability (e.g. an individual who is deaf and needs the device to communicate). This is justified as proportionate for the legitimate aim of preventing crime, including disrupting OIC.

There is potential that new **offences related to articles for use in serious crime** could potentially have a differential impact on people with disabilities, which can be appropriately mitigated as set out below. The proposed new offences impose an objective test where a person has reasonable grounds to suspect that an article will be used in serious crime (where a reasonable person with access to the same information as the accused would have suspected that the article was for use in serious crime). Some individuals may be less able to identify reasonable grounds for suspicion that an article will be used in serious crime, on the basis of a mental impairment, disorder or condition amounting to a disability under section 6(1) of the Equality Act 2010. It is therefore possible that such individuals may be more likely to come under scrutiny by law enforcement agencies on suspicion of these offences.

This risk can be mitigated by the Crown Prosecution Service (CPS) considering whether prosecution is in the public interest, and considering CPS published legal guidance for prosecutors on deciding whether to prosecute

individuals with a mental health condition or disorder. Any remaining risk is considered to be justified as proportionate for the legitimate aim of tackling serious crime and preventing harm.

Amendments to allow **collection of biometric data outside of a visa application process** applies to everyone regardless of disability. Where people are physically unable to enrol their fingerprints, such as an amputee, they will be excused from the requirement. Any indirect discrimination on the basis of disability is considered justified as proportionate for the legitimate aim of maintaining reasonable adjustments for those with disabilities.

Practical mitigations include:

- Providing additional time for data collection (as far as operational constraints allow),
- Offering personal assistance for those with mobility issues,
- Training staff on disability awareness and legal obligations under the Equality Act 2010,
- Ensuring biometric data collection sites are fully accessible (as far as operational constraints allow).

## **Gender Reassignment**

### Direct Discrimination

No direct discrimination has been identified.

### Indirect Discrimination

No indirect discrimination has been identified.

## **Marriage and Civil Partnership**

### Direct Discrimination

No direct discrimination has been identified.

### Indirect Discrimination

No indirect discrimination has been identified.

## **Pregnancy and Maternity**

### Direct Discrimination

No direct discrimination has been identified.

### Indirect Discrimination

There is potential that amendments to allow **collection of biometric data outside of a visa application process** may have a disproportionate impact on

the basis of pregnancy and maternity. This could arise where biometric collection processes may involve extended wait times, screening or physical demands to complete such processes. The intention would be to mitigate such risk through operational planning, implementing reasonable accommodations where possible. Any residual risk of indirect discrimination is considered justified as a proportionate means of supporting security during an evacuation of other HMG exit facilitation.

## **Race**

### Direct Discrimination

The provisions that allow **collection of biometric data outside of a visa application process** will directly discriminate on grounds of nationality, in that biometrics can generally only be taken from persons subject to immigration control, a definition which broadly reflects the scope of the Immigration Act 1971. This would therefore generally exclude British Citizens. This direct discrimination will be authorised by law under paragraph 17 to Schedule 3 of the Equality Act 2010. It would additionally be a proportionate means of supporting security during an evacuation of other HMG exit facilitation.

### Indirect Discrimination

It may be that UK nationals are more likely to be affected by **DVLA data sharing** measures, however there is not enough available evidence to confirm this. However, this is not expected to constitute negative impact except where addressing non-compliance or criminal activity and is justified on the basis of law enforcement and protecting human life.

Customs data relevant for **HMRC data sharing** measures will in the main relate to companies which are engaged in international trade. Those associated with such companies may be more likely to be nationals of countries which are more likely to engage in such trade. This means that, to the extent that information shared is capable of identifying individuals, it may be more likely that that information will be about nationals of such countries. It may therefore be that once that information is operationalised, it is more likely that there will be an indirect impact on such nationals. However, there is not enough available evidence to suggest particular nationalities will be impacted. There are likely to be changes in trade over the years, leading to a different make-up of companies using HMRC's services. Secondly, a company being based in a particular country does not determine that the company's employees are likewise from that particular country. Nevertheless, any such impact is considered justified as proportionate for the legitimate aim law enforcement and protecting human life.

Evidence used to provide an indicative picture of the cohort of individuals who may be impacted by changes to **SCPOs and new offences related to articles for use in serious crime** suggests the majority of individuals who may be impacted by these proposals are white. However, there is an over-representation of black people in the proxy data used, as they constitute 4-11%

of the cohort within the data, despite making up only 4% of the population of England and Wales in 2021. The measures will have the positive effect of preventing harm, and any order imposed or conviction made under the measures will be carried out by a court following proper process and safeguards. Any indirect discrimination is justified as a proportionate means to achieve a legitimate aim of targeting serious crime.

Schedule 7 powers – which includes the power to take **biometrics during a CT port examination** to determine someone’s involvement in terrorism – are used in accordance with the threat from terrorism. The ethnicity of those examined under Schedule 7 is recorded. In the cases where ethnicity was known:

- 35% identified as “Chinese or Other”
- 27% identified as ‘Asian or Asian British’
- 22% identified as “White”
- 7% identified as “Black or Black British”
- 5% identified as “Mixed”<sup>11</sup>

The most significant terrorist threat to the UK remains Islamist terrorism.<sup>12</sup> As noted by the Independent Reviewer of Terrorism Legislation in his 2020 report regarding similar figures, *“It is a reasonable inference from these ethnicity figures that the main use of Schedule 7 powers is to detect Islamist terrorism which continues to be the principal threat within Great Britain”*<sup>13</sup>. This could indicate indirect discrimination in the use of Schedule 7, but this is justified to counter the threat from terrorism. Additionally, the existing Schedule 7 Code of Practice<sup>14</sup> sets out that the decision to examine someone must not be arbitrary or based on protected characteristics alone.

Providing **validation of fees charged in relation to qualifications** will be more likely to affect individuals outside the UK and therefore non-UK nationals. The changes may be particularly likely to affect individuals from certain countries (namely India, China and the USA) based on data available of those using the services. However, those individuals are not expected to be at a particular disadvantage. The changes mean all individuals will not be able to recover fees paid for services in the past, but they will have received the benefit of those services and the change is justified on the basis of ensuring effective use of taxpayer funds.

## **Religion or Belief**

### Direct Discrimination

No direct discrimination has been identified.

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<sup>11</sup> See: Length of examination, resultant detention and ethnicity in ‘Operation of Police Powers under the Terrorism Act 2000: quarterly update to September 2024: quarterly data’.

<sup>12</sup> Whilst public statistics are not available for counter-terrorism police’s prioritisation of their CT caseload, it is likely that it is broadly comparable to MI5’s where 75% of their CT work relates to Islamist extremists. See: [Director General Ken McCallum gives latest threat update | MI5 - The Security Service](#).

<sup>13</sup> From IRTL 2020 report, paragraph 6.31.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1071570/IRTL\\_Report\\_Terrorism\\_Acts\\_in\\_2020](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071570/IRTL_Report_Terrorism_Acts_in_2020)

<sup>14</sup> [Codes of practice for officers using examination powers at ports - GOV.UK](#)

## Indirect Discrimination

Schedule 7 powers – which include the power to **take biometrics during a CT port examination** to determine an individual’s involvement in terrorism - are used in accordance with the threat from terrorism. The religion of those examined under Schedule 7 is not recorded. The most significant threat remains Islamist terrorism. As noted by the Independent Reviewer of Terrorism Legislation in his 2020 report regarding similar figures, *“It is a reasonable inference from these ethnicity figures that the main use of Schedule 7 powers is to detect Islamist terrorism which continues to be the principal threat within Great Britain”*<sup>15</sup>. This could indicate indirect discrimination in the use of Schedule 7, but this is justified to counter the threat from terrorism. Additionally, the existing Schedule 7 Code of Practice<sup>16</sup> sets out that the decision to examine someone must not be arbitrary or based on protected characteristics alone.

## **Sex**

### Direct Discrimination

No direct discrimination has been identified.

### Indirect Discrimination

Males may be more likely to be affected by **DVLA data sharing** measures. According to the DfT’s Domestic Road Freight Statistics for the United Kingdom published 24 January 2023<sup>17</sup>, in 2021 (the most recent available that consider sex), 98% were male, and 2% female. However, this is not expected to constitute negative impact except where addressing non-compliance or criminal activity and is justified on the basis of law enforcement and protecting human life.

**Enhanced powers to seize, retain, copy and extract information from electronic devices** will apply where i) a device is found on an illegal entrant/arrival; and ii) there are reasonable grounds to suspect the relevant person is in possession of a relevant article (anything which appears to contain information relating to a facilitation offence under section 25 or section 25A of the Immigration Act 1971). In the year ending September 2024, males represented 82.3% of small boat arrivals (with similar proportion in previous years 2018-2023). Therefore, males are more likely to be affected by these changes, but this is justified as it reflects a disproportionate role of males in organised crime group activity, and for disrupting OIC and preventing exploitation of migrants.

Evidence used to provide an indicative picture of the cohort of individuals who may be impacted by changes to **SCPOs and new offences related to articles**

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<sup>15</sup> From IRTL 2020 report, paragraph 6.31.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1071570/IRTL\\_Report\\_Terrorism\\_Acts\\_in\\_2020](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071570/IRTL_Report_Terrorism_Acts_in_2020)

<sup>16</sup> [Codes of practice for officers using examination powers at ports - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1071570/IRTL_Report_Terrorism_Acts_in_2020)

<sup>17</sup> <https://www.gov.uk/government/statistics/domestic-road-freight-statistics-july-2021-to-june-2022/domestic-road-freight-statistics-july-2021-to-june-2022>

**for use in serious crime** suggests these measures will mainly impact men. Of the proxy used to understand the target cohort, 54-97% were male, consisting of an over-representation compared to the overall population of England and Wales of which 49% are male. Furthermore, evidence showed the relevant subject of 99% of SCPOs issued at criminal courts in England and Wales between the years 2019-2023, were male.<sup>18</sup> This may result in men being disproportionately impacted by these changes, but this is justified as a proportionate means to achieve a legitimate aim of targeting serious crime. The measures will have the positive effect of preventing harm, and any order imposed or conviction made under the measures will be carried out by a court following proper process and safeguards.

Schedule 7 powers – which include the power to **take biometrics during a CT port examination** to determine an individual’s involvement in terrorism - are used in accordance with the threat from terrorism. While the sex of those selected for examination under Schedule 7 is not recorded, data indicates that those arrested for terrorism-related offences are predominantly males (82%)<sup>19</sup>. It is possible that those stopped under Schedule 7 also reflect this trend which could indicate indirect discrimination in use of Schedule 7, but this is justified to counter the threat from terrorism. Additionally, the existing Schedule 7 Code of Practice sets out that the decision to examine someone must not be arbitrary or based on protected characteristics alone.

Providing **validation of fees charged in relation to qualifications** may be slightly more likely to affect men than women, on the basis that limited data available shows a slight majority of applications for the relevant Home Office services being from men. No such data is available for the Department for Education services. However, those individuals are not expected to be at a particular disadvantage. The changes mean all individuals will not be able to recover fees paid for services in the past, but they will have received the benefit of those services, and the change is justified on the basis of ensuring effective use of taxpayer funds.

## **Sexual Orientation**

### Direct Discrimination

No direct discrimination has been identified.

### Indirect Discrimination

No indirect discrimination has been identified.

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<sup>18</sup> This is the first release of this data and it is a subset of the published Accredited Official Statistics series Criminal Justice Statistics Quarterly (CJSQ) which are available here: <https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>. The data is unpublished management information and has not been quality assured to the same standards as the wider CJSQ release but is important to the equalities impact assessment.

<sup>19</sup> See: [Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes, and stop and search, Great Britain, quarterly update to September 2024 - GOV.UK](#).

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

### **Age**

Measures relating to the **collection of biometric information** include steps to ensure safeguards for children, such as requiring a responsible adult to be present, or temporarily waiving biometric capture, and reasonable adjustments for older individuals.

### **Disability**

None identified.

### **Gender Reassignment**

None identified.

### **Maternity and Pregnancy**

None identified.

### **Race**

Services relevant to measures to provide **validation of fees charged in relation to qualifications** have positive impacts on advancing equality of opportunity for those of different nationalities, given that the services facilitate eligibility for opportunities to live, study and be employed in the UK and overseas. However, these positive impacts are unaffected by this measure, given that it does not alter the operation of these services, or the level of fees charged.

### **Religion or Belief**

None identified.

### **Sex**

None identified.

### **Sexual Orientation**

None identified.

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

All law-abiding citizens within a community should benefit from the higher number of interventions, and the reduction in crime that the proposals designed to disrupt and prevent serious crime and OIC are expected to

deliver. However, it is not anticipated that these measures will have a significant impact on community relations between people who share a protected characteristic and those that do not, apart from those set out below.

### **Age**

None identified.

### **Disability**

None identified.

### **Gender Reassignment**

None identified.

### **Maternity and Pregnancy**

None identified.

### **Race**

Whilst proposals related to serious and organised crime are focused on improving the law enforcement response and preventing harm, there is a risk that the disproportionate number of black people within the impacted population (see the relevant assessment provided in section 3a) may have a negative impact on relations between those who belong to those ethnic and national groups and those who do not. These proposals are considered to be a proportionate means of achieving the legitimate aim of preventing serious and organised crime. Furthermore, the proposals will help to aid community cohesion by strengthening powers to disrupt serious criminals who cause serious harm to communities in England and Wales.

### **Religion or Belief**

None identified.

### **Sex**

None identified.

### **Sexual Orientation**

None identified.



**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?**

No further mitigations – please see the assessments of each limb, which include identified mitigations.

**4. Review date:**

The Home Office will keep the measures under review in terms of their potential equalities impacts, including as part of preparations to implement the measures, subject to Parliament's approval of the legislation.

**5. 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, Deputy Director, SRO Border Security, Asylum and Immigration Bill

**Directorate/Unit:** Border Security Command

**Lead contact:** Fiona Cameron

**Date:** 10 February 2025