



Equality Impact Assessment [EIA]

Demonstrating Compliance with the Public Sector Equality Duty (PSED)

Due regard must be shown:

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

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

Correcting the Right to Rent Scheme (the Scheme) to confirm that a landlord or agent will obtain a statutory excuse for a time-limited period rather than indefinitely in relation to an occupier who meets the criteria to be allowed “permission to rent”. This safeguard can be applied where they are not a “relevant national” and do not have a “right to rent” due to their immigration status. The Landlord’s Guide to Right to Rent will be amended to reflect this.

The Right to Rent Scheme

The Scheme is a vital component of the Compliant Environment, which is designed to ensure only those with a legal right to be in the UK can access work, benefits and services. The legislative measures are underpinned by primary and secondary legislation and a statutory code of practice for landlords.

The Scheme came into force under the Immigration Act 2014 and was phased into operation. The first phase was in the West Midlands (Birmingham, Sandwell, Walsall, Dudley and Wolverhampton) on 1 December 2014. Subsequently, the Scheme was rolled out throughout England in February 2016.

Since 2016, landlords and letting agents in England have been required to check the person they are renting property to has the right to rent. The checks apply equally to everyone seeking accommodation in the private rental sector, including British citizens. There are penalties for landlords who fail to

complete the checks and who are later found to have rented to someone without permission to be in the UK.

Under the Scheme, landlords can accept a broad range of commonly held documents as evidence of a person's right to rent. The Scheme is modelled closely on checks that landlords and lettings agents undertake to check the credentials of prospective tenants. Checks can also be carried out via the Home Office online service or via Identity Service Providers (IDSPs) where applicable.

Permission to Rent

Permission to rent is an important safeguard that was incorporated into the Scheme. Section 21(3) of the Immigration Act 2014 allows the SSHD to allow permission to rent to a migrant even though their immigration status means they would otherwise not have the right. This allows for circumstances where, for safeguarding reasons, it is appropriate to allow them access to the private rented sector. The safeguard is discretionary and is part of the Home Office's commitment to support vulnerable individuals. For example, potential victims of modern slavery may be allowed permission to rent from the date of a positive reasonable grounds decision from the National Referral Mechanism (NRM) or families with one or more children under the age of 18 who are cooperating with the Home Office's family returns process, could be allowed permission to rent.

The wider Scheme places a time limited period on a person's right to rent, in line with their Immigration status. Permission to rent does not. Attaching a time limited eligibility period onto permission to rent before re-checking is required, would enable the Home Office to provide stronger engagement with those considered vulnerable, and also mitigate against the potential exploitation from rogue landlords.

For the purposes of these changes, landlords who have received an indefinite statutory excuse, will not be required to conduct retrospective checks on occupiers with permission to rent. Individuals will only be required to re-submit evidence if there is a change to the residential tenancy agreement or landlord.

Permission to Rent Criteria

Permission to rent can be allowed at any time during the individual's immigration case by a range of Home Office case-working functions. It will normally be allowed where the following circumstances apply, and the individual holds no lawful immigration permission:

- i. Individuals with an outstanding protection claim, Article 3 ECHR medical claim, or an outstanding appeal against the refusal of such a claim.
- ii. Individuals who have lodged further submissions against the refusal of a protection claim and the submissions have been outstanding for more than five working days.

- iii. Individuals who have an appeal outstanding which cannot be pursued from abroad.
- iv. Individuals whose judicial review application has been given permission to proceed and where the judicial review would as a matter of policy be treated as being suspensive of removal. This would continue until any reconsideration required of the Home Office as an outcome of the judicial review had been undertaken.
- v. Individuals who have been granted bail by an immigration tribunal or the courts which contains a residence restriction and/or electronic monitoring restrictions.
- vi. Potential victims of modern slavery from the date of a positive reasonable ground's decision from the National Referral Mechanism up until two weeks after either a positive or negative conclusive grounds decision.
- vii. Recognised victims of modern slavery with an associated outstanding application for discretionary leave.
- viii. Families with one or more children under the age of 18 who are cooperating with the Home Office's Family Returns Process.
- ix. Individuals who are complying with the Home Office's voluntary departure process. This includes those with genuine obstacles to return, providing that they are taking all reasonable steps to address these.

There is also discretion to allow permission to rent where the above criteria are not met under the following reasons-

- 1. It would allow the Home Office to better progress a migrant's case if they were allowed permission to rent.
- 2. The migrant is considered to be a vulnerable person or unable to make their own decisions.
- 3. In order to avoid a breach of human rights.

The aim of the policy change

The aim of amending the discretionary safeguard to a period of twelve months rather than indefinitely is to:

- protect those considered to be vulnerable or unable to make their own decisions
- avoid a breach of human rights
- alleviate potential burden on local authorities
- provide the individual with a certain address which may support the Home Office to better progress their case
- Redress the disparity of those without lawful residence in the UK having an uncontrolled time period of rental rights, against those who have a time-limited period in line with their lawful status within the UK
- ensure clarity and accuracy on when permission to rent expires and remove the need for caseworkers to calculate the period manually.

It should be noted that the change will not limit a person to having permission to rent for a maximum of 12 months. It will be possible for successive periods of permission to rent to be allowed. This is subject to that person's permission to rent not being revoked. Permission to rent will not be automatically renewed but will instead be subject to an assessment of the individual's circumstances at the time a further period of permission to rent is required.

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

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 Scheme 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 by the Scheme across all of the protected characteristics more thoroughly than reliance on solely migrant population data would have allowed for.
- Although, currently the scheme is in force in England only, it affects the entire population, as it requires British and Irish citizens to present evidence of their right to rent. Therefore it is considered right that the baseline should reflect the broad nature of the policy to ensure any wide-ranging impact is fully identified.
- Where overall UK data is readily available, that has been used to inform the analysis. For the purposes of expediency where information is broken

down by Devolved Administration, the data from England, which has the greatest population numbers and can be confidently used to reflect the most common scenarios, has been analysed.

Data Evidence

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

- The Department for Levelling Up, Housing and Communities, which looks at private renter data, the Decent Home Standard and the nationality of those living in the private renter sector. The 2022 Housing survey states that after nearly doubling in size since the early 2000s, the private rented sector has accounted for about one fifth of households in England since 2013-14. The private rented sector makes up 4.6 million or 19% of households. There is no change in the proportion of private rented households from the year previous (2020-21), but there is a small, though significant decrease compared to the high point in 2016-17 (20%).

[Department for Levelling Up, Housing and Communities *English Housing Survey, 2020 to 2021: private rented sector.*](#)

[Department for Levelling Up, Housing and Communities *English Housing Survey, 2021 to 2022: private rented sector.*](#)

- Phase 1 evaluation of the scheme took place six months after the scheme implementation in December 2014. This evaluation was of the initial phase of the operation in the West Midlands. Overall, the evaluation found that landlords, letting agents and housing associations intended to, and were carrying out, right to rent check and that the Landlords Checking Service (LCS) was set up successfully, with the civil penalties regime for landlords being established.

[Evaluation of the Right to Rent scheme - GOV.UK \(\[www.gov.uk\]\(http://www.gov.uk\)\),](#)

- Phase 2 evaluation of the scheme took place in March 2021 and the findings were 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. The results show that some examples of discriminatory attitudes were found, but evidence gathered did not suggest this was as a result of the Scheme. Furthermore, incidences were considered to be occasional, rather than systemic. Generally, awareness of the scheme was strong among landlords, with around two thirds of them saying they were confident about undertaking the checks.

[Right to Rent scheme: Phase two evaluation - GOV.UK \(\[www.gov.uk\]\(http://www.gov.uk\)\)](#)

- The Department for Levelling Up, Housing & Communities published a white paper in June 2022, setting out plans to fundamentally reform the private rented sector and level-up housing quality in the UK.

<https://www.gov.uk/government/publications/a-fairer-private-rented-sector>

Legislation and Guidance Evidence

Other sources of evidence include information from the following:

- [The Equality Act 2010](#)
- [The Immigration \(Residential Accommodation\) \(Prescribed Cases\) Order 2014](#)
- [The Immigration \(Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) Order 2014 \(legislation.gov.uk\)](#)
- [Immigration Act 2016 \(legislation.gov.uk\)](#)
- [Immigration Act 2014 \(legislation.gov.uk\)](#)
- The 2011 Census data-
https://www.nomisweb.co.uk/sources/census_2011
- [Right to rent: landlords penalties guidance: 20 November 2020](#)
- [Phase one - Census 2021 topic summaries - Census 2021](#)
- [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(legislation.gov.uk\)](#)
- [Code of practice on right to rent: civil penalty scheme for landlords and their agents: 6 April 2022 \(accessible version\) - GOV.UK \(www.gov.uk\)](#)
- [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](#)

Legislation relating to the Scheme and timeframes given.

Section 24(9) of the Immigration Act 2014 (“the Act”) confirms that a “limited right occupier” is a relevant occupier who has a limited right to rent at the time when the occupier was first granted a right to occupy the premises under the agreement.

Section 21(1) of the 2014 Act provides that a person (“P”) is disqualified from occupying premises under a residential tenancy agreement if (a) P is not a “relevant national” and (b) P does not have a “right to rent” in relation to premises. A relevant national is a person who is a British or Irish Citizen or a person with leave to enter or remain granted under the ‘Residence Scheme Immigration Rules as defined in section 17 (1) of the European Union (Withdrawal Agreement) Act 2020.

Section 21(2)(a) of the 2014 Act provides that a person who is not a relevant national does not have a right to rent in relation to premises if that person requires leave to enter or remain in the United Kingdom but does not have it.

Section 21(3) of the 2014 Act provides the Secretary of State with a discretionary power to treat those who do not have a right to rent in spite of section 21(2) as if they do.

Section 21(4) of the 2014 Act confirms that references to a person with a “limited right to rent” in the Act include a person who either (a) has been granted leave to enter or remain in the United Kingdom for a limited period or (b) is not a relevant national. A person who is not a relevant national and requires leave to enter or remain in the United Kingdom but does not have it falls within section 21(4)(b) of the Act and therefore has a limited right to rent.

Section 27(4)(a) of the 2014 Act confirms that the length of the eligibility period in relation to a limited right occupier who does not have leave to enter or remain in the United Kingdom (or a valid immigration document) is 12 months.

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 s149 the eight specified protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race (including ethnic or national origins, colour, or nationality); religion or belief; sex; and sexual orientation.

Exceptions within the Equality Act

Under schedule 13(2) of the Equality Act, less favourable treatment based on age does not amount to discrimination if it is a proportionate means of achieving a legitimate aim. Differential treatment on the basis of age is, therefore, permissible if there are objective reasons for it.

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.

Schedule 29 of the Equality Act sets out that a service-provider must not discriminate by not providing the person with the service. Some limited exceptions, in respect of immigration, are set out in Schedule 3 to the 2010 Equality Act, with regard to the protected characteristics of age, disability, race (nationality) and race (ethnic or national origins) and religion and belief. These exceptions could include those individuals whose case is being dealt with under restricted leave policy. The effect of these exceptions is that if certain conditions are met, a service-provider will not be discriminating contrary to section 29.

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.

The proposal does not change the operation of the Scheme. It does not alter the duties on landlords to conduct right to rent checks, nor the legal protections that tenants enjoy against unlawful discrimination, when carrying out the check, set out in the existing statutory codes of practice. The proposal has the intention of advancing safeguarding into the protection of vulnerable persons, through the periodic review periods.

Consideration has been given to the impacts of the proposed change and whether it will or will not be likely to lead to discrimination or disadvantage, based on the protected characteristics of age as specified in the Equality Act 2010.

Age

Direct Discrimination

The Scheme applies to all adults aged 18 and over who enter into a private tenancy agreement in England. This is because government-issued guidance advises that it is unlikely anyone under the age of 18 would be able to enter into a private rented tenancy agreement.

The 2011 census indicates that of the overall population of England and Wales:

- 21.3% was aged under 18 years
- 29.5% was aged 18 to 39 years
- 26.7% was aged 40 to 59 years
- 22.5% was aged 60 years and over

Full 2021 census data, which includes these elements, has not yet been released. It will be reviewed, alongside any other pertinent information to understand whether it provides an updated picture in future iterations.

National Statistics from the English housing survey 2021-2022 shows that about two thirds (65%) of householders in the private rented sector were aged under 45 years. The proportion of households with children was 32%, in the private rented sector.

Unaccompanied children will generally be in the care of an appointed guardian or a local authority, and the Home Office manages these cases in line with statutory guidance, so they do not need permission to rent. Most other children will be with their families and can benefit from permission to rent when it has been allowed to the adult in the family to whom the tenancy agreement applies. One of the criteria for permission to rent is families with

one or more children under the age of 18 who are cooperating with the Home Office's Family Returns Process.

Under section 13(2) of the Equality Act, direct discrimination based on a person's age can be justified if it is a proportionate means of achieving a legitimate aim. Landlords are already required to carry out a follow-up check on those with a time-limited right to rent and these checks are an embedded element of the Scheme. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Indirect Discrimination

The majority of those affected by amending the permission to rent policy is likely to be vulnerable adults aged under 45 years old and families with dependent children. The impact of amending the policy so that a landlord or agent will obtain a statutory excuse for a maximum of 12 months, rather than indefinitely, is proportionate to achieving a legitimate aim. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Disability

Direct Discrimination

The Scheme applies to all adults entering into a private tenancy agreement in England, regardless of whether they have a disability. National Statistics from the English housing survey 2021-2022 shows that 30% of households in the private rented sector had one or more household members with a long-term illness or disability. Compared to 54% in the social rented sector.

Permission to rent also applies equally. The Home Office does not routinely seek data on disability within the immigration application process and has not identified anything that would indicate those falling within the protected characteristic of disability will be particularly affected by amending the permission to rent checking process to a time limited period, rather than indefinitely. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Indirect Discrimination

Those with certain disabilities may find it harder to secure adequate, affordable accommodation. However, permission to rent would be allowed for

a maximum of 12 months at a time, which would be an added safeguard of linking in with the Home Office for those with a disability.

Two of the criteria for a discretionary grant of permission to rent are:

- the migrant is considered to be a vulnerable person or unable to make their own decisions
- to avoid a breach of human rights

Those seeking permission to rent who have a disability may fall into one of these categories as a result of their disability and so are appropriately safeguarded by the policy.

Those with permission to rent are not required to provide documentation to confirm their eligibility to enter into a private tenancy agreement and are not required to use a digital service (such as the Home Office online checking service). Instead, landlords undertake follow-up checks directly with the Landlords Checking Service, which can be done via telephone or an online request. Guidance documents are being updated to easy read documents, which will support some individuals who need extra support in the private rented sector. This will allow the scheme to be more inclusive of those with learning disabilities. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Gender Reassignment

Direct Discrimination:

The Scheme applies to all adults who enter into a private tenancy agreement in England and does not differentiate based on whether an individual has or is undergoing gender reassignment. Permission to rent also applies equally and is designed to identify whether someone has lawful status in the UK regardless of their gender. The Home Office does not seek data on gender reassignment within the immigration application process and has not identified anything that would indicate those falling within the protected characteristic of gender assignment will be affected. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Indirect Discrimination:

No impacts on these grounds have been identified.

Marriage and Civil Partnership

Direct Discrimination

The Scheme applies to all adults entering into a private tenancy agreement in England, regardless of whether they are single, married or in a civil partnership. National Statistics from the English housing survey 2021-2022 shows that in 2020-21, that most commonly private renters lived in one-person households (38%). Couples with no children (23%) are the second most common household type in the private rented sector. Permission to rent also applies equally. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Indirect Discrimination

In 2019, married and civil partner couple families accounted for the largest share of families with dependent children (61.4%). Therefore, the Home Office recognises that there may be an indirect impact on amending the policy, upon a married couple or a couple in a civil partnership as they are more likely to have children under the age of 18 and are more likely to qualify for permission to rent. One of the criteria for permission to rent is families with one or more children under the age of 18 who are cooperating with the Home Office's Family Returns Process. The impact of amending the policy so that a landlord or agent will obtain a statutory excuse for a maximum of 12 months rather than indefinitely is proportionate to achieving a legitimate aim. In addition, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Pregnancy and Maternity

Direct Discrimination

The Scheme applies to all adults entering into a private tenancy agreement in England, regardless of whether they are pregnant or a mother. Permission to rent also applies equally. The Home Office does not routinely seek data on the number of persons who are pregnant or a mother within the immigration application process and has not identified anything that they would be particularly affected by amending the permission to rent checking process to a maximum of 12 months rather than indefinitely. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Indirect Discrimination

The Home Office recognises that there may be an indirect impact on amending the policy to those that are pregnant and mothers with dependent children. One of the criteria for permission to rent is families with one or more children under the age of 18, who are cooperating with the Home Office's Family Returns Process. The impact of amending the policy so that a landlord

or agent will obtain a statutory excuse for a maximum of 12 months rather than indefinitely is proportionate to achieving a legitimate aim. In addition, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Race

Direct Discrimination

The Scheme applies to all adults entering into a private tenancy agreement in England, regardless of their race (which includes nationality, colour or ethnic or national origins), including British and Irish citizens. The Scheme is well embedded and widely used for all nationalities. According to the Housing survey 2020-2021, most private renters are from the UK and Ireland (83%). This is further broken down by EU nationals 11% and non-EU 7% of private renters.

Phase 2 evaluation of the scheme was published on 9 February 2023. The central research question was whether the Scheme leads to unlawful race discrimination. The results showed that some examples of discriminatory attitudes were found but uncovered no statistically significant findings of increased race discrimination as a result of the Scheme. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Indirect Discrimination

Permission to rent only applies to persons without lawful status in the UK, and it is this which is the defining factor as to whether a person could be considered for permission to rent, and not their nationality. Race, colour, nationality or ethnic origins are not factors in determining a migrant's immigration status in the United Kingdom. The impact of amending the policy so that a landlord or agent will obtain a statutory excuse for a maximum of 12 months rather than indefinitely is proportionate to achieving a legitimate aim. In addition, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Religion or Belief

Direct Discrimination

No impacts on these grounds have been identified.

Indirect Discrimination

The Scheme applies to all adults entering into a private tenancy agreement in England, regardless of their religion or beliefs. The 2011 census in England showed that out of 53,012,546 residents, the main religions were broken down into the following:

Religion	Number of residents
Christians	31,479,876
No religion	13,114,232
Muslim	2,660,116
Hindu	806,199
Sikh	420,196
Jewish	261,282
Buddhist	238,626

It may be assumed that the individuals who will be allowed permission to rent may be of a religious belief other than Christian. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Sex

Direct Discrimination

No impacts on these grounds have been identified.

Indirect Discrimination

The Home Office has not identified anything that shows either men or woman would be particularly affected by amending the permission to rent checking process. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Sexual Orientation

Direct Discrimination

No impacts on these grounds have been identified.

Indirect Discrimination

The Scheme applies to all adults entering into a private tenancy agreement in England, regardless of their sexual orientation. The 2021 Census in England and Wales showed that 89.4% identified as straight or heterosexual and 3.2% identified as LGB+ orientation. The Scheme is not in place to discriminate in this limb, amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the

Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

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

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

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Schedule 18 of the 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.

Disability- Two of the criteria for a discretionary grant of permission to rent are:

- the migrant is considered to be a vulnerable person or unable to make their own decisions
- to avoid a breach of human rights

Those seeking permission to rent who have a disability may fall into one of these categories as a result of their disability and so are appropriately safeguarded by the permission to rent policy.

The current position, whereby the statutory excuse is indefinite whilst the individual remains in the same property, may result in a perceived need to remain in that property, even where the property may be unsuitable for their needs. Reducing the statutory excuse for permission to rent to a maximum of 12 months may result in the individual feeling they have greater flexibility to access alternative housing where needed. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Gender Reassignment - There is no evidence to suggest that any person undergoing or who has undergone gender reassignment will face any different impact than those who have not undergone or are not undergoing gender reassignment. The policy would be applied equally to both groups of people. Amending the permission to rent checking process to a time limited period

would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Maternity and Pregnancy- Families with one or more children under the age of 18 who are cooperating with the Home Office's Family Returns Process will normally be allowed permission to rent.

In addition, two of the criteria for a discretionary grant of permission to rent are:

- the migrant is considered to be a vulnerable person or unable to make their own decisions
- to avoid a breach of human rights

Those seeking permission to rent who are pregnant or have recently had a child may fall into one of these categories depending on their circumstances and so are appropriately safeguarded by the policy. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Sex - There is no evidence to suggest that there will be any differential impact based on sex. The policy would be applied equally to both sexes. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Sexual Orientation - There is no evidence to suggest that a person will be discriminated against or be adversely impacted due to their sexual orientation by reducing the statutory excuse for permission to rent to a maximum of 12 months. The policy would be applied equally regardless of their sexual orientation. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

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

Age - There is no distinction between people who share this protected characteristic and persons who do not share it. The Scheme and the permission to rent policy applies to everyone aged 18 and over, seeking to enter into a relevant private tenancy agreement in England. As a result, it is considered that the policy has an overall neutral affect in respect of fostering good relations between people who share a protected characteristic and persons who do not share it.

Disability - The Scheme applies to all adults entering into a private tenancy agreement in England, regardless of whether they have a disability. Consideration of a grant of permission to rent is also available to anyone who meets the criteria.

Two of the criteria for a discretionary grant of permission to rent are:

- the migrant is considered to be a vulnerable person or unable to make their own decisions
- to avoid a breach of human rights

Those seeking permission to rent who have a disability may fall into one of these categories as a result of their disability. There is the possibility that persons who do not share this protected characteristic may feel they have less chance of being allowed permission to rent as a result. However, permission to rent is a safeguard, and it is proportionate that where a disabled person is considered to be sufficiently vulnerable that permission to rent is allowed. Reducing the statutory excuse to a maximum 12 months means that an individual cannot continue to rent indefinitely as a result of their disability, despite having no valid permission to stay in the UK. Such individuals would have to demonstrate that it is appropriate to grant a further period of permission to rent. It is likely that that assessment would include whether the individual is continuing to take steps to resolve their immigration status, either by being granted permission to stay or departing the UK.

Therefore, reducing the statutory excuse to a time limited period may have a positive effect on relations between those who share this protected characteristic and those who don't. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Gender Reassignment - There is no distinction between people who share this protected characteristic and persons who do not share it as the Scheme applies to everyone, and consideration of a grant of permission to rent is also available to anyone who meets the criteria.

Maternity and Pregnancy - There is no distinction between people who share this protected characteristic and persons who do not share it as the Scheme applies to everyone, and consideration of a grant of permission to rent is also available to anyone who meets the criteria. However, as recognised, persons who are pregnant or have recently had a child may be more likely to be allowed permission to rent on a discretionary basis due to their circumstances and may also be allowed permission to rent where they are complying with the Home Office's Family Returns Scheme.

However, permission to rent is a safeguard, and it is proportionate that where a person is pregnant or has recently given birth and is considered to be sufficiently vulnerable that permission to rent is allowed. Reducing the statutory excuse to a maximum of 12 months means that an individual can't continue to rent indefinitely as a result of being pregnant or having recently

given birth, despite having no valid permission to stay in the UK. Such individuals would have to demonstrate that it is appropriate to qualify for a further period of permission to rent. It is likely that that assessment would include whether the individual is continuing to take steps to resolve their immigration status, either by being granted permission to stay or departing the UK.

Therefore, reducing the statutory excuse to a time limited period may have a positive effect on relations between those who share this protected characteristic and those who don't. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Race - The Scheme applies to anyone entering into a relevant private tenancy agreement in England, regardless of their race (which includes nationality), including British citizens.

Migrants and those born overseas accounted for a sizeable minority of private tenants in England in 2019/2020, with over 25% abroad.¹

In 2020/2021, the proportion of households headed by someone born outside of the UK and Ireland reduced to 17%.²

Therefore, the Scheme is well embedded and widely used, not only for UK and Irish citizens, but for other nationalities too. The Right to Rent Evaluation phase two, published in February 2023 uncovered no statistically significant findings of increased race discrimination as a result of the Scheme.

The permission to rent policy does not apply to British and Irish citizens because these nationalities have an unlimited right to rent in England and having no need for this safeguard and are not disadvantaged by their exclusion from the policy. As a result, it is considered that the policy has an overall neutral effect in respect of fostering good relations between people who share a protected characteristic and persons who do not share it.

The Home Office recognises that permission to rent results in a meaningful differential impact in respect of the protected characteristic of race (specifically nationality), for those individuals who require permission to rent. However, permission to rent only applies to persons without lawful status in the UK, and it is this which is the defining factor as to whether a person could be considered for permission to rent, and not their nationality.

Religion or Belief - There is no distinction between people who share this protected characteristic and persons who do not share it as the Scheme applies to everyone, and consideration of a grant of permission to rent is also

² [English Housing Survey: Private rented sector, 2020-21 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1154442/english-housing-survey-2020-21-private-rented-sector.pdf) **Department for Levelling Up, Housing and Communities** *English Housing Survey, 2020 to 2021: private rented sector.*

available to anyone who meets the criteria. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Sex - There is no distinction between people who share this protected characteristic and persons who do not share it as the Scheme applies to everyone, and consideration of a grant of permission to rent is also available to anyone who meets the criteria. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

Sexual Orientation - There is no distinction between people who share this protected characteristic and persons who do not share it as the Scheme applies to everyone, and consideration of a grant of permission to rent is also available to anyone who meets the criteria. Amending the permission to rent checking process to a time limited period would be an added safeguard, enabling stronger engagement with the Home Office for those considered to be vulnerable and would also mitigate against the potential exploitation from rogue landlords.

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 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. Furthermore, there is no provision to enforce a penalty against a landlord for renting a premises to a person under the age of 18, who would otherwise be disqualified. Children who require accommodation separate to the family unit would usually be supported by Children's Services. Permission to rent also applies only to those aged 18 and over. Children can benefit from permission to rent where they are part of a family unit where permission to rent has been allowed to the adult to whom the tenancy agreement applies.	Not applicable
Disability	Potential negative	It is acknowledged that persons with a disability may be more likely to qualify for permission to rent, and therefore be subject to follow-up checks. This means that there is an impact in respect of the protected characteristic of disability, who will be affected more frequently by the permission to rent policy.	Permission to rent is a safeguard to allow certain groups, including certain vulnerable groups from being unable to live in the private rented sector. Whilst reducing the statutory excuse for permission to rent to a time limited period will mean such individuals will be subject to follow-up checks, if they were not appropriately safeguarded by the policy, the result would be that they are excluded from the private rented sector, which would increase their vulnerability. Follow-up checks are proportionate to achieve the policy aim.

			Those with permission to rent are not required to provide documentation to confirm their eligibility to enter into a private tenancy agreement and are not required to use a digital service (such as the Home Office online checking service). Instead, landlords undertake follow-up checks directly with the Landlords Checking Service, which can be done via telephone or an online request. Guidance documents are also being updated to easy read documents, which will support those individuals who need extra support in the private rented sector. It will allow the scheme to be more inclusive of those with learning disabilities. Therefore, disability will not impact an individual proving their permission to rent, either when an time limited period of permission to rent is allowed, or where a follow up check would be required after the time limited period.
Gender Reassignment	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Scheme and the permission to rent policy apply 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 Scheme and the permission to rent policy apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated.	Not applicable
Pregnancy and Maternity	Potential negative	It is acknowledged that persons with a disability may be more likely to qualify for permission to rent, and therefore be subject to follow-up checks.	Permission to rent is a safeguard to allow certain groups, including certain vulnerable groups from being unable to live in the private rented sector. Whilst reducing the statutory excuse for permission to rent to a time limited period will mean such individuals will be subject to follow-up

		This means that there is an impact in respect of the protected characteristic of pregnancy and maternity, who will be affected more frequently by the permission to rent policy.	checks, if they were not appropriately safeguarded by the policy, the result would be that they are excluded from the private rented sector, which would increase their vulnerability. Follow-up checks are proportionate to achieve the policy aim.
Race	Potential negative	It is acknowledged that permission to rent policy is specifically targeted at certain nationalities (i.e., third-country nationals who are not British or Irish citizens). This means that there is an impact in respect of the protected characteristic of race, as non-British and Irish nationalities will be affected more frequently by the permission to rent policy. This could also impact on the obligation to foster good relations. However, permission to rent only applies to persons without lawful status in the UK, and it is this which is the defining factor as to whether a person could be considered for permission to rent, and not their nationality.	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. As the people who will be impacted by the permission to rent policy is defined by migration patterns and therefore race and ethnicity it is possible that relations between the wider public and people subject to the compliant environment measures could be strained, where ethnicity is directly linked to nationality. The Home Office will continue to keep this under review.
Religion or Belief	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Scheme and the permission to rent policy apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated.	Not applicable
Sex	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the Scheme and the permission to rent policy 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 Scheme and the permission to rent policy apply to everyone. Therefore, there should be no	Not applicable

		difference in how individuals who share this protected characteristic are treated.	
--	--	--	--

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 Department is taking steps to improve data quality in relation to persons allowed permission to rent. This will allow for better monitoring of how the permission to rent safeguard is used in practice, and to evaluate its effectiveness.

As new information comes to light the Department will continue to consider any negative impacts of the permission to rent policy, as well as how those negative impacts can be mitigated and updated this EIA accordingly.

Published guidance will be updated to provide more information to landlords and tenants about permission to rent. In addition to this, operational practices will be reviewed, and updated where required.

Review date: This equality impact assessment will continue to be kept under review as further data and evidence permission to rent becomes available. The earliest review will be 12 months from when guidance and operational practices are updated to confirm that the statutory excuse for permission to rent for persons without lawful status is for a maximum of 12 months at a time.

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:

Name/Title: Rebecca Nugent

Directorate/Unit: Compliant Environment and Enforcement Unit

Lead contact: Scott Bailey **Date:**

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

Date sent to PSED Team: