



## Equality Impact Assessment [EIA]

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

#### **The Illegal Migration Bill**

The Government has introduced the Illegal Migration Bill (“the Bill”), which will make it unambiguously clear that, if a person enters the UK illegally having travelled via a safe third country, they will not be able to remain here and instead will be detained and promptly returned to their home country if safe or to a safe third country, where any asylum claim will be considered.

The Bill will place a duty on the Secretary of State to make arrangements to remove, as soon as practicable, all persons who arrive without permission. The scheme will apply to those who arrive or enter the UK illegally and have not come directly from a territory where their life and freedom was threatened.

The duty in clause 2(1) does not require the Secretary of State to make removal arrangements for unaccompanied children until they reach adulthood, but there is a power to remove them. In line with current policy and existing legal powers, this power would only be exercised in exceptional circumstances, principally for the purposes of family reunion or removal to a safe country of origin.

Where the Government is seeking removal to a safe country of origin (countries listed in new section 80AA of the Nationality, Immigration and Asylum Act 2002 (“the 2002 Act”), see below) or safe third country, any asylum or human rights claims against the country of origin will be declared inadmissible and the asylum claim will be processed in that safe third country. The Bill makes provision so that people subject to removal to a safe third country will have a limited time in which to bring a claim based on a real, imminent and foreseeable risk of serious and irreversible harm arising from their removal to a specified third country or a claim based on a mistake of fact in deciding they are subject to the duty to remove. There will be strict time limits on the submission of the grounds for such a challenge and for its consideration by the Upper Tribunal. The Secretary of State will be able to certify a claim as clearly unfounded and where certified there will be no right of appeal. In such cases it will be possible to petition the Upper Tribunal direct to challenge this decision. Claims brought late will not be considered by the Secretary of State unless there are compelling reasons for lateness. All other legal challenges to removal, whether on ECHR grounds or otherwise, would be non-suspensive and would therefore be considered by our domestic courts following a person’s removal from the UK.

The Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. In line with current policy, this power will only be exercised in very limited circumstances ahead of them reaching adulthood, principally for the purposes of family reunion or where removal is to a safe country of origin. The Bill: (i) confers a power on the Secretary of State to provide accommodation, and other appropriate support, for unaccompanied migrant children who are subject to the scheme; (ii) confers a power (enforceable through the courts) on the Secretary of State to

transfer responsibility for the care of an unaccompanied child within the scheme to a local authority and vice versa. The Home Office is not currently in the position of corporate parent to any unaccompanied child and there is nothing in the Bill which changes this position. It will continue to be for the local authority where an unaccompanied child is located to consider its duties under the Children Act 1989.

The Bill also creates a power to detain those within scope of the scheme pending decisions on whether the conditions are met/the duty applies and pending their removal. The First-Tier Tribunal will not be able to grant immigration bail within the first 28 days and challenges to detention by way of judicial review will also be restricted in that period. However, applications to the High Court for a writ of habeas corpus will be permitted at any time. An individual will also still be able to apply to Secretary of State for bail at any point.

The Bill provides that unaccompanied children may only be detained for purposes prescribed in regulations made by the Secretary of State, such as for the purposes of removal to effect a family reunion (as is the case under current law) or for the purposes of age assessment. It also allows the Secretary of State to make regulations specifying time limits to be placed on the detention of unaccompanied children for the purpose of removal, if required.

The Bill will disapply the duty on the Secretary of State to consult the Independent Family Returns Panel ("IFRP") in relation to the detention of families with children under the powers conferred by the Bill. The IFRP provides advice on the safeguarding and welfare plans for the removal of families with children who have no legal right to remain in the UK, and have failed to depart voluntarily; disapplying the duty to consult the IFRP will ensure that the work of the IFRP does not delay removals under the scheme provided for in the Bill.

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Secretary of State to have regard to the interests of children as a primary factor in immigration decisions affecting them. The duty does not mean that it is the only factor that must be considered and other relevant factors must be taken into account. In making decisions and devising policy guidance under this Bill, the Home Office will continue to comply with the section 55 duty.

The Bill extends section 80A of the 2002 Act, which provides that asylum claims from EU nationals must generally be declared inadmissible to the UK's asylum system, to nationals of other specified countries. These additional countries will include the other EEA countries - Iceland, Liechtenstein and Norway - as well as Switzerland and Albania. The Bill includes a new section 80AA which sets out the States to which section 80A applies, a power to amend that list, and the test to be applied by the Secretary of State when adding any further States to this list. In addition, section 80A is extended to cover rights-based claims as well as asylum claims.

The Bill will mean that a person subject to the clause 2 duty to make removal arrangements and who receives a positive Modern Slavery Reasonable Grounds decision (RG decision) will, subject to limited exceptions, be disqualified from the benefits of the National Referral Mechanism and arrangements for their removal will be made in line with clause 2 of the Bill. If an individual arrives in the UK illegally and

a First Responder suspects that modern slavery has taken place, they will still refer that individual into the NRM and will receive an RG decision. This process has not changed, but, as set out in clauses 22 to 24, the support entitlements that flow from that decision will be withheld, subject to the exceptions in clause 21.

To act as a further deterrent to unlawful entry into the UK, the Bill will provide for a bar on legal re-entry to the UK for those removed under the scheme. There will also be a bar on those who fall within the scheme from securing settlement in the UK or from acquiring British citizenship through naturalisation or registration. The Home Secretary retains the ability to waive the bars in limited circumstances.

The Bill will also provide for Parliament to agree an annual cap on the number of individuals admitted to the UK through safe and legal routes. The annual cap will be determined following consultation with local authorities and other relevant persons, and will be amendable in the event of humanitarian crises.

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

The Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 (“the 2010 Act”) requires public authorities to have due regard to several equality considerations when exercising their functions. Account must be taken of the impact on the protected characteristics of race, disability, sex, age, gender reassignment, religion or belief, pregnancy and maternity, sexual orientation and, in certain circumstances, marriage and civil partnership.

Under section 149 of the 2010 Act, the PSED requires public authorities, in the exercise of their functions, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

“Exercising public functions” includes making Immigration Rules and setting policy and may also include a decision to take no action.

Properly carrying out the duty in this scenario requires consideration of all eight protected characteristics under the 2010 Act against the three limbs of the duty (see above), including consideration as to whether any adverse impacts on particular groups of persons may be mitigated or justified.

Schedule 18 to the 2010 Act sets out exceptions to the PSED. In relation to the exercise of immigration and nationality functions, section 149(1)(b) – advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it – does not apply to the protected

characteristics of age, race (insofar as it relates to nationality or ethnic or national origins) or religion or belief.

Schedules 3 and 23 to the 2010 Act permit the authorisation of discrimination in relation to age, nationality, national or ethnic origins, or place or duration of evidence in certain circumstances. This includes where the discrimination is authorised by the Immigration Rules. However, it is still necessary to consider the justification for any discrimination and the impact on equalities as a matter of public law, including in particular in relation to Convention rights under the Human Rights Act.

Direct discrimination is treating someone less favourably because of one or more protected characteristics, and indirect discrimination is doing something in a way that has a less favourable impact on someone who shares a protected characteristic than it does on others who do not share it, and that treatment cannot be objectively justified. The test to be applied is whether an individual would have received the less favourable treatment if they did not have the protected characteristic.

The Department has also considered whether the Bill creates indirect discrimination and the extent to which it impacts on the limbs of the PSED. Indirect discrimination occurs when an apparently neutral provision, criterion or practice is applied or would be applied to persons who do and do not have any given protected characteristic and the provision puts or would put persons who share the characteristic at a particular disadvantage when compared with those who do not. The courts generally conduct a two-stage test when assessing indirect discrimination:

i. Is the provision/criterion/practice pursuant to a legitimate aim?

The aim must be lawful, non-discriminatory and representative of a real and objective consideration.

ii. If so, are the means of achieving it proportionate – i.e. appropriate and necessary in all the circumstances?

It is not considered that harassment or victimisation have relevance here as there are rules and codes of practice in place to prevent this in relation to the Home Office's compliance and enforcement measures. Therefore, the following section will primarily consider things from the perspective of eliminating discrimination, both direct and indirect. For the reasons provided in this assessment, the Home Office believes that the Government's proposals are justified.

This EIA is designed to provide a high-level overview of the individual and cumulative possible impacts of the policies which are being taken forward within this Bill. Its objective is to identify potential equalities impacts, mitigations and justifications.

This EIA reflects the Bill as introduced into Parliament. It is a live document. It ensures that equalities are considered at an early stage, to inform decision making in relation to policies and operations which are necessary to support the Bill (noting that PSED does not apply to primary legislation itself). This EIA therefore does not

consider those elements of the scheme that are proposed to deliver through secondary legislation, changes to the Immigration Rules or via non-legislative measures alone, such as via the provision of new guidance. Where necessary, these elements – which include the provision of safe and legal routes to the UK – will instead be assessed separately.

When considering the public-sector equality duty, the Department has drawn from several sources of evidence. These include:

- Seeking the views of subject matter experts within the Home Office and other Government departments, including the Ministry of Justice
- [Asylum Support Guidance](#)
- [Asylum and resettlement datasets](#)
- [Home Affairs Committee – Channel crossings](#)
- [Home Affairs Committee – Migration and asylum](#)
- [UNHCR Resettlement Data Finder](#)
- [Irregular migration to the UK statistics, year ending December 2022](#)
- [Irregular migration to the UK, year ending December 2022](#)
- [NCA Annual Report and Accounts 2022](#)
- [National Referral Mechanism statistics](#)
- Reports and non-governmental organisation (NGO) literature on the NRM

In making this assessment, the Department has more data about age, race (nationality) and sex which has enabled us to identify potential disadvantages on these grounds, and to seek out mitigations of those impacts. However, the corollary of this is that it is harder to identify potential impacts on people who share other protected characteristics – for example, a lack of data about pregnancy and maternity makes it hard for us to identify potential impacts or any potential mitigations for this group.

This is a live document and the Department will therefore monitor continued impacts and update this assessment accordingly.

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

The Department has considered the consequences of removing people to their country of origin (when it is safe) or a safe third country, including their treatment there on the basis of any protected characteristics or vulnerabilities. The Department considers that removal to either their country of origin or a safe third country would not risk discrimination or less favourable treatment as the country is safe. Any differential treatment would not be as a result of the person's protected characteristics but because of the objective circumstances in the country to which they were removed – specifically that the country is safe.

## **Age**

Direct Discrimination –

The duty in clause 2(1) does not require the Secretary of State to make removal arrangements for unaccompanied children under 18, although she may do so. As a matter of current policy this power will only be exercised in very limited circumstances ahead of them reaching adulthood, principally for the purposes of family reunion or where removal is to a safe country of origin.

This approach is not age specific given the position on accompanied children set out below. For unaccompanied children this is a fair and reasonable approach to safeguard the most vulnerable and ensure they are properly supported and cared for.

For accompanied children under 18 in family group they are subject to the duty in clause 2(1) or the power to remove certain family members of someone who is subject to the duty in clause 8. This is considered a reasonable approach to maintain family units and allow children to remain together with their parents. Adults over 18 are also subject to the duty in clause 2(1) or the power to remove certain family members in clause 8.

The remaining measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination against people as a result of their age.

#### Indirect Discrimination –

The Bill will impact people who enter the UK illegally and is therefore more likely to impact some age groups, as they are more likely to attempt to enter the UK via illegal routes. In 2022, 45,755 people arrived by small boat, of which 17,678 were aged 25-39 and 15,786 were aged 18-24. Any differential impact on these age groups is the result of a person's conduct and is justified and proportionate in order to achieve the legitimate aims of controlling migration and reducing crime.

With regards to age assessment, there is no single technique, or combination of techniques, that can determine someone's age with precision. Given the difficulty in establishing age in the absence of reliable documentary evidence, genuine children who are closer to the age of 18 are more likely to be affected by provisions currently in relation to age assessment. This is because children who are clearly younger are less likely to be identified as requiring an age assessment. Age-disputed persons, who are perceived to (potentially) be over 18, will be subject to an age assessment. They may be assessed to be a different age than claimed. Current legislation could impact age-disputed persons who are children but are considered to potentially be adults, (more than those who are children and are believed to be children) on the basis of their perceived age.

Age assessment policy works on basis of benefit of the doubt, so that where there is any doubt following initial decision individuals can have a full age assessment. This is to reduce the safeguarding risks associated with children inadvertently being treated as an adults and where adults are wrongly

assessed as children and placed in accommodation with younger children to whom they could present a risk, in line with ensuring that the best interests of genuine children remains the primary consideration.

Unaccompanied children approaching their 18<sup>th</sup> birthday who have not been removed may seek to abscond from local authority or Home Office run services. Robust safeguarding procedures will be in place to ensure all unaccompanied children in Home Office accommodation are safe and supported. If a child absconds whilst in local authority care or in Home Office accommodation, there will be a multi-agency response to seek to trace and locate the child, being mindful of the need to also prevent any risk of exploitation.

The Department's view is that the Bill should have a deterrent effect which can result in fewer unaccompanied children arriving in the UK by dangerous and unlawful means. This serves to mitigate in the long term how many children will arrive in the UK, which impacts on the risk of children absconding. The Home Office is also taking new accommodation and transfer powers, which are just some of the steps the Department is taking to ensure unaccompanied children are placed into local authority care as soon as possible.

The Home Office does not have, and therefore cannot discharge, duties under Part 3 of the Children Act 1989 and there is nothing in the Bill which changes this position. Taking into account the above, any differential impact is justified and proportionate in order to achieve the legitimate aims of controlling migration and reducing crime.

## **Disability**

### **Direct Discrimination –**

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination against people with disabilities.

### **Indirect Discrimination –**

Data on disability in relation to people who enter the UK illegally is not available and it is therefore difficult to categorically establish whether there will be indirect discrimination. Action to remove a person will be subject to them being fit to travel. Furthermore, an individual with certain disabilities who has made a modern slavery claim may find it more difficult or be less capable of supporting an investigation or criminal proceedings as a result of their disabilities, which would enable them to benefit from Modern Slavery support. In order to mitigate potential indirect discrimination, First Responders are trained when communicating with vulnerable potential victims. Taking into account the above, any differential impact is justified and proportionate in

order to achieve the legitimate aims of controlling migration and reducing crime.

## **Gender Reassignment**

### **Direct Discrimination –**

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination against people on the grounds of gender reassignment.

### **Indirect Discrimination –**

There is no evidence to support that the Bill will indirectly discriminate against people based on gender reassignment.

## **Marriage and Civil Partnership**

### **Direct Discrimination –**

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination against people based on marriage or civil partnership.

### **Indirect Discrimination –**

Data on marriage and civil partnership in relation to people who enter the UK illegally is not available. There is potential for negative impact where one of the couple is in the UK with permission and their spouse or civil partner is subject to the duty to remove as these actions will separate the couple. However, the adequate safe and legal routes available for people to join their spouse or civil partner in the UK mean they should not need to travel to the UK illegally. There may also be an impact where the person is not, as a result of their own actions, subject to the duty but is brought in scope by virtue of the power to remove under clause 8. In that situation, the couple would not be separated, albeit they would be removed to their country of origin, if safe, or a safe third country. Any differential impact is the result of a person (or their family member's) conduct and is justified and proportionate in order to achieve the legitimate aims of controlling migration and reducing crime.

## **Pregnancy and Maternity**

### **Direct Discrimination –**

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination on account of pregnancy or maternity.



## Indirect Discrimination –

Data on pregnancy and maternity in relation to people who enter the UK illegally is not available and it is therefore difficult to categorically establish whether there will be indirect discrimination. The Bill will disapply the statutory time limit on the detention of pregnant women, meaning that they will no longer benefit from more favourable treatment than people who do not share this protected characteristic. The Bill provides that an individual may only be detained for a period of time which the Secretary of State considers to be reasonably necessary, and appropriate healthcare provisions will be provided. The Home Office will closely monitor data available to us to identify any impacts of the Bill on women to ensure appropriate support measures can be put in place. Removal will be subject to the person being fit to travel. In the absence of evidence to the contrary and taking into account the mitigation above, the Department does not consider the Bill will indirectly discriminate against people based on pregnancy or maternity.

## Race

### Direct Discrimination –

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination on account of race, beyond that permitted by Schedule 3 to the 2010 Act.

### Indirect Discrimination –

Data on colour or ethnic or national origins in relation to people who enter the UK illegally is not directly available, although data on nationality gives an indication. Data on small boat arrivals shows that, of the 45,755 people that arrived in the UK by small boat in 2022, 12,561 were Albanian nationals, 8,633 were Afghans, 5,642 were Iranian and 4,377 were Iraqi. Syria (2,916) was the 5<sup>th</sup> country on the list. The nationalities who most frequently attempt to enter via illegal routes are likely to be different, depending on a range of factors. For example, Vietnamese nationals accounted for 1,403 small boat arrivals in 2021 (6<sup>th</sup> highest nationality) but only 477 in 2022 (12<sup>th</sup> highest nationality). While data on colour and ethnicity may not be collected in some countries or classified differently in others<sup>1</sup>, it is clear that the majority of small boat arrivals were from countries with populations which, in the UK, are minority ethnic. Putting in place appropriate translation support will ensure that non-British victims of Modern Slavery will be able to cooperate with the police and other authorities, in order to avoid difficulties that might otherwise arise due to language barriers. Established best practice is that that victims are spoken to by agencies, including First Responders, face-to-face and in a language they understand. This enables the building of rapport and trust, and helps to mitigate against any risks posed by an inability to understand and speak English. Any differential impact on people of a particular colour,

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<sup>1</sup> [Comparing ethnicity data for different countries - Data in government \(blog.gov.uk\)](https://blog.gov.uk/2022/07/20/comparing-ethnicity-data-for-different-countries/)

nationality or ethnic or national origin is a result of a person's conduct and is justified and proportionate in order to achieve the legitimate aims of controlling migration and reducing crime.

## **Religion or Belief**

### **Direct Discrimination –**

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination on account of religion or belief.

### **Indirect Discrimination –**

Data on religion or belief in relation to people who enter the UK illegally is not available and it is therefore difficult to categorically establish whether there will be indirect discrimination. Due to the demographics of certain nations and propensity for certain nationalities to be referred into the NRM, some religious groups may be more commonly represented and for that reason may seem to be subject to indirect discrimination on this basis. However, this is more likely to be the result of substantive reasons for being referred into the NRM (for example, indicators of modern slavery or abuse). In any event, staff receive training in which they explore how to mitigate any negative impacts. The effect of this training will assist with negating any potential indirect discrimination. Where an individual with this protected characteristic has been detained, they may have particular needs that will need to be accounted for, including those relating to their ability to engage in activities such as religious belief and worship activities. The practice of religion is covered in the Detention Centre Rules 2001. The modern slavery measures allow for investigations into exploitation that help crack down on illegal people smugglers and traffickers, while enabling the Government to protect against the unprecedented threat to public order arising from the current circumstances relating to illegal entry into the UK, including the loss of life caused by illegal and dangerous journeys and the pressure placed on public services. Taking into account the above, any differential impact is justified and proportionate in order to achieve the legitimate aims of controlling migration and reducing crime.

## **Sex**

### **Direct Discrimination –**

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination on the basis of sex.

### **Indirect Discrimination –**

The Bill will impact people who enter the UK illegally and is therefore more likely to impact males, as they are more likely to attempt to enter the UK via illegal routes. Data on small boat arrivals shows that males represented 83% of small boat arrivals in 2022.

With regard to disqualification from modern slavery support, women are far more likely to be victims of gender-based violence and sexual exploitation.

Patterns of modern slavery are strongly gendered and disqualification from modern slavery support may have a disproportionate impact depending on the exploitation type. Currently males (men) make up the majority of NRM referrals, with males (men) accounting for 93% (4,342) of referrals for criminal exploitation and 93% (4,796) of those for labour exploitation in 2022. By contrast, the majority of identified potential victims of sexual exploitation are female (women), accounting for 85% (1,402) of those in 2022. Some people can be victims of multiple forms of exploitation. Victims of modern slavery are likely to suffer from multiple instances of exploitation over a period of months and in many cases, years and therefore likely to experience significant trauma and harm. The frequency of rape and other sexual offences experienced in typical cases of sexual exploitation is particularly high [Cooper et al, 2018 – Economic and Social Costs of MS] which can often have profound physical and mental health impacts on females (women) and lead to fear. Therefore, the disqualification provision could have a disproportionate impact on potential victims of modern slavery who are female (women). However, were provision to be made that excluded female victims it is not unreasonable to assume that this may result in a change of methodology from people traffickers, targeting vulnerable women to a greater extent.

Research shows that it is possible that a person who has experienced sexual abuse, exploitation, or gender-based violence may, in certain circumstances, experience symptoms of trauma or PTSD. In some cases it could be difficult for those individuals to recall or explain their experiences in investigations or criminal proceedings.<sup>2</sup> It may be possible to put in place mitigations to enable witnesses to give evidence in these circumstances, however any such mitigations would need to go beyond simply access to technology and would likely require meaningful support. Mitigations would need to ensure that any risk that individuals may find the investigations process distressing is mitigated and minimised. Reasonable and Conclusive Grounds decisions are made on a case-by-case basis and this risk will be monitored via County of Origin/Country Policy Information Notes (CPIN) reports to mitigate any potential discrimination. The Department will continually monitor the impact of the modern slavery measures on people with this protected characteristic to ensure our approach is appropriate for that cohort. The modern slavery measures allow for investigations into exploitation that help us crack down on illegal people smugglers and traffickers, while enabling the Government to protect against the unprecedented threat to public order arising from the current circumstances relating to illegal entry into the UK, including the loss

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<sup>2</sup> See, for example, Zimmerman C, Hossain M, Yun K, Roche B, Morison L, Watts C, (2006) 'Stolen smiles: A summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe', London School of Hygiene & Tropical Medicine

of life caused by illegal and dangerous journeys and the pressure placed on public services. The net effect of this will be a reduction in risks of sexual exploitation in the UK, since the individuals will no longer be brought into the UK. Any differential impact is as a result of a person's conduct and is justified and proportionate in order to achieve the legitimate aim of controlling migration and reducing crime.

## **Sexual Orientation**

### **Direct Discrimination –**

The measures in the Bill will apply equally to people who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. The Department does not consider there to be any direct discrimination on the basis of sexual orientation.

### **Indirect Discrimination –**

Data on sexual orientation in relation to people who enter the UK illegally is not available and it is therefore difficult to categorically establish whether there will be indirect discrimination. However, consensual same-sex sexual acts are criminalised in 64 countries.

Where individuals are from a country where their sexual orientation is criminalised, and their exploitation is linked to their sexual orientation, they may require additional support in order to trust and engage with law enforcement. This will be more likely in cases where they have been prosecuted in the past in their home country. Reasonable and Conclusive Grounds decisions are made on a case-by-case basis and this risk will be monitored via County of Origin/Country Policy Information Notes (CPIN) reports to mitigate any potential discrimination. The Department will continually monitor the impact of the modern slavery measures on people with this protected characteristic. The modern slavery measures allow for investigations into exploitation that help crack down on illegal people smugglers and traffickers, while enabling the Government to protect against the unprecedented threat to public order arising from the current circumstances relating to illegal entry into the UK, including the loss of life caused by illegal and dangerous journeys and the pressure placed on public services. Any differential impact is as a result of a person's conduct and is justified and proportionate in order to achieve the legitimate aim of controlling migration and reducing crime.

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

**Age** – N/A, as per Schedule 18 to the 2010 Act.

**Disability** – People with disabilities could be considered more vulnerable than others if they attempt a dangerous journey to enter the UK via illegal means. The scheme encourages people to seek asylum in the first safe country they reach, rather

than attempting a dangerous journey. Doing so reduces the risk of exploitation by people smugglers, as well as reducing the risk of them making dangerous journeys organised by criminal gangs. This advances equality of opportunity in respect of people with disabilities.

**Gender Reassignment** – The proposal applies equally to all.

**Maternity and Pregnancy** – The Bill will disapply statutory time limit on detention of pregnant women, meaning that they will no longer benefit from more favourable treatment than people who do not share this protected characteristic. Pregnant women and mothers could be considered more vulnerable than others if they attempt a dangerous journey to enter the UK via illegal means. The scheme encourages people to seek asylum in the first safe country they reach, rather than attempting a dangerous journey. Doing so reduces the risk of exploitation by people smugglers, as well as reducing the risk of them making dangerous journeys organised by criminal gangs. This advances equality of opportunity in respect of people with this protected characteristic.

**Race** – As per Schedule 18 to the 2010 Act, consideration is restricted to colour. The proposal applies equally.

**Religion or Belief** – N/A, under Schedule 18 of the Equality Act 2010.

**Sex** – While more males than females attempt to enter the UK via illegal routes, most victims and survivors of trafficking crimes globally are female. The scheme encourages people to seek asylum in the first safe country they reach. Doing so reduces the risk of exploitation by people smugglers, as well as reducing the risk of them making dangerous journeys organised by criminal gangs.

**Sexual Orientation** – The proposal applies equally to all.

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

**Age** – The duty to make arrangements to remove people under the scheme does not extend to unaccompanied children whilst under 18, although the Secretary of State may choose to do so in particular circumstances.

As a matter of current policy this power in clause 3(2) will only be exercised in very limited circumstances ahead of them reaching adulthood, principally for the purposes of family reunion or where removal is to a safe country of origin.

Where arrangements are not made whilst the unaccompanied child is under 18, they will become liable for removal when they turn 18.

Unaccompanied children who arrive in the UK illegally will be provided with the necessary accommodation and support but they will not be able to settle in the UK.

Taking these measures will send a clear message that children cannot be exploited and forced into crossing the Channel in small boats for the purpose of starting a new life in the UK.

This approach is designed to safeguard the most vulnerable and ensure they are properly supported and cared for. The remaining provisions apply equally to all regardless of age and equal treatment could be considered to foster good relations.

**Disability** – The proposal applies equally to all.

**Gender Reassignment** – The proposal applies equally to all.

**Maternity and Pregnancy** – The proposal applies equally to all.

**Race** – The proposal applies equally to all foreign nationals.

**Religion or Belief** – The proposal applies equally to all.

**Sex** – The proposal applies equally to all but is likely to affect males more than females. This is a consequence of their actions and the strong public interest in controlling migration and reducing crime.

**Sexual Orientation** – The proposal applies equally to all.

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

Given the discretionary elements of parts of the scheme, the potential impacts will depend on how measures are implemented and operationalised in practice. The Department will take steps to ensure appropriate mitigation in implementation and operationalisation of the Scheme.

**5. Review date:**

This EIA will be reviewed ahead of implementation of the Illegal Migration Act.

**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:** Matthew Bligh

**Directorate/Unit:** Enforcement and Criminality Policy Unit

**Lead contact:** Miguel San Juan

**Date:** 26 April 2023