



Equality Impact Assessment [EIA]

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

The Safety of Rwanda (Asylum and Immigration) Bill

The Government is introducing the Safety of Rwanda (Asylum and Immigration) Bill (“the Bill”), to enable Parliament to confirm that, alongside the new Treaty with the Government of Rwanda, Rwanda is deemed safe. It will prevent and deter unlawful migration to the UK by enabling the removal of persons who arrive through unsafe and illegal routes to Rwanda. The Nationality and Borders Act 2022 strengthened the longstanding inadmissibility process. It provides for the inadmissibility of asylum claims from those who have travelled through, or have a connection to, a safe third country where it is considered reasonable for them to have sought protection, and provides for their removal to a safe third country. Any individual who is otherwise suitable for an inadmissibility decision and who has arrived in the UK through dangerous, illegal and unnecessary methods since 1 January 2022 may be considered for relocation to Rwanda, under the Migration and Economic Development Partnership. The inadmissibility provisions in the Illegal Migration Act 2023 go further. The 2023 Act places a duty on the Secretary of State to make arrangements to remove those who have entered or arrived in the UK illegally and provides that asylum and human rights claims (against country of origin) will be declared inadmissible and therefore not be considered in the UK.

The Rwanda Treaty, which has been laid before Parliament, imposes obligations on the Government of Rwanda in respect of non-refoulement, changes to the system for asylum processing, legal representation and independent monitoring of applications.

The Bill requires Home Office decision-makers and the courts to conclusively treat Rwanda as a safe country. It will prevent the courts from considering claims that Rwanda will not abide by its international obligations (including its obligations under the Rwanda Treaty) or that a person’s application will not be properly considered by the Rwandan authorities.

The Bill does not prevent Home Office decision-makers from deciding, on the basis of compelling evidence relating to a person’s individual circumstances, that Rwanda is not a safe country for that particular person. The courts will be able to consider claims brought on the grounds that Rwanda is not a safe country for a person, based on compelling evidence relating to a person’s individual circumstances.

The Bill disapplies sections 2 and 3 of the Human Rights Act 1998, which relate to the interpretation of case law from the European Court of Human Rights. It also disapplies sections 6-9 of the Human Rights Act, which apply to duties on public bodies. A person can advance that their particular circumstances may lead to serious and irreversible harm, which if successful, can lead to interim relief being granted.

The Bill confirms that it is only for Government Ministers to decide whether to comply with interim measures imposed by the European Court of Human Rights in respect of the intended removal of people to Rwanda. It also restricts the ability of the courts to grant interim remedies which delay or prevent removal to cases where a person faces a real, imminent and foreseeable risk of serious and irreversible harm if removed to Rwanda.

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.

We have 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.

The Bill will have the greatest impact on people who have arrived in, entered or seek to enter the UK illegally as it supports the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. Consideration of the equalities impacts of those policies can be found in their respective published EIAs.

This EIA reflects the Bill as introduced to 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).

When considering our public-sector equality duty, we have drawn from several sources of evidence. This includes:

- 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, year ending September 2023](#)
- [Irregular migration detailed datasets and summary tables](#)
- Reports and non-governmental organisation (NGO) literature on the NRM
- [Equality Impact Assessment - Illegal Migration Bill](#)
- [Equality Impact Assessment - Migration and Economic Development Partnership with Rwanda](#)

In making this assessment, we have 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, it is more difficult 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 we 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.

We have considered the consequences of removing people to Rwanda including their treatment there on the basis of any protected characteristics or vulnerabilities. We consider that removal to Rwanda would not risk discrimination or less favourable treatment as it is a safe country. 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.

Age

Direct Discrimination –

The measures in the Bill will apply equally to those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do not consider there to be any direct discrimination against people based on their age.

Indirect Discrimination –

As some age groups are more likely to attempt to enter via illegal routes, the Bill will have a greater impact on them. From January – September 2023, 24,830 people arrived by small boat, of which 9,422 were aged 25-39 and 8,658 were aged 18-24. Any differential impact on these age groups is the result of a person's conduct and is justified and proportionate to achieve the legitimate aims of controlling migration and reducing crime.

Disability

Direct Discrimination –

The measures in the Bill will apply equally to those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do 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. Any action to remove a person to Rwanda will be subject to them being fit to travel. Taking into account the above, any differential impact is justified and proportionate to achieve the legitimate aims of controlling migration and reducing crime.

As detailed above, this is a live document. We will update it as more detailed policy and processes are developed.

Gender Reassignment

Direct Discrimination –

The measures in the Bill will apply equally to those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do not consider there to be any direct discrimination against people on the grounds of gender reassignment.

Indirect Discrimination –

Data on gender reassignment 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. In the absence of evidence to the

contrary, we do not consider 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 those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do 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. In the absence of evidence to the contrary, we do not consider the Bill will indirectly discriminate against people based on marriage or civil partnership.

Pregnancy and Maternity

Direct Discrimination –

The measures in the Bill will apply equally to those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do 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. Removal to Rwanda 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, we do 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 those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do 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 available, although data on nationality gives an indication. Data on small boat arrivals shows that, of the 24,830 people that arrived in the UK by small boat from January – September 2023, 4,843 were Afghans, 2,617 were Iranian, 2,499 were Turkish, 2,397 were Eritrean and 2,041 were Iraqi. The nationalities who most frequently attempt to enter via illegal routes are likely to be different, depending on a range of factors. For example, Albanian nationals accounted for 12,658 small boat arrivals in 2022, making them the top nationality and accounting for 28% of all small boat arrivals last year. However, so far this year they are the 10th highest nationality with 863 arrivals. While data on colour and ethnicity may not be collected in some countries or classified differently in others¹, it is clear that the majority of small boat arrivals were from countries with populations which, in the UK, are minority ethnic. Any differential impact on people of a particular colour, nationality or ethnic or national origin is a result of a person's conduct and is justified and proportionate 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 those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do 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. In the absence of evidence to the contrary and taking into account the mitigation above, we do not consider the Bill will indirectly discriminate against people based on religion or belief.

Sex

Direct Discrimination –

The measures in the Bill will apply equally to those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do not consider there to be any direct discrimination on the basis of sex.

¹ [Comparing ethnicity data for different countries - Data in government \(blog.gov.uk\)](https://www.blog.gov.uk/2023/07/12/comparing-ethnicity-data-for-different-countries/)

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 84% of small boat arrivals between January and September 2023. Any differential impact is as a result of a person's conduct and is justified and proportionate to achieve the legitimate aim of controlling migration and reducing crime.

Sexual Orientation

Direct Discrimination –

The measures in the Bill will apply equally to those subject to the provisions of the Illegal Migration Act 2023 and the Migration and Economic Development Partnership with Rwanda. We do 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. In the absence of evidence to the contrary, we do not consider the Bill will indirectly discriminate against people of a particular sexual orientation.

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(2) to the 2010 Act.

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 – As per Schedule 18(2) to the 2010 Act, consideration is restricted to colour. The proposal applies equally.

Religion or Belief – N/A, under Schedule 18(2) of the Equality Act 2010.

Sex – While more males are likely to be affected by the Bill, the proposal applies equally to all.

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 proposal applies equally to all but may affect some age groups more than others. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

Disability – The proposal applies equally to all. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

Gender Reassignment – The proposal applies equally to all. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

Maternity and Pregnancy – The proposal applies equally to all. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

Race – The proposal applies equally to all foreign nationals. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

Religion or Belief – The proposal applies equally to all. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

Sex – The proposal applies equally to all but is likely to affect males more than females. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

Sexual Orientation – The proposal applies equally to all. Equal treatment can be said to contribute to the fostering of good relations between those who share a protected characteristic and those who don't.

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?

Any differential treatment would not be as a result of the person's protected characteristics. As we operationalise the Bill, we will give due consideration to our obligations under the Equality Act 2010.

5. Review date:

This EIA represents the content of the Bill at the time of introduction in Parliament.

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: 12 December 2023

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

Date sent to PSED Team: