

# **Developing an evaluation strategy for the compliant environment:**

Review of internal data and processes

**Home Office Analysis and Insight**

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## List of acronyms

A&E	Accident and emergency
Atlas	Immigration casework system
CFI	Criminal Financial Investigations
CID	Case Information Database
CPCT	Civil Penalties Compliance Team
DAST	Data and Sanctions Team
DHSC	Department of Health and Social Care
DLUHC	Department for Levelling Up, Housing and Communities
DPL	Disqualified persons list
DVA	Driver and Vehicle Agency
DVLA	Driver and Vehicle Licensing Agency
DWP	Department of Work and Pensions
ECHO	Employer Consultation with the Home Office
FCA	Financial Conduct Authority
HASC	Home Affairs Select Committee
HMRC	HM Revenue and Customs
HO	Home Office
IA	Immigration Act
ICIBI	Independent Chief Inspector of Borders and Immigration
ICE	Immigration Compliance and Enforcement
IE	Immigration Enforcement
IECAS	Immigration Enforcement Checking and Advice Service
ISA	Initial Status Analysis
ISD	Interventions and Sanctions Directorate
LCS	Landlord Checking Service
MIDAS	Managing Integrated Data Application Solutions
MoU	Memorandum of Understanding
MOVEit	Managed file transfer software
NHS	National Health Service
NINO	National Insurance number
NLDP	Notice of letting to a disqualified person
NRPF	No Recourse to Public Funds
OGD	Other government departments
OGDs	Other government departments

ONS	Office for National Statistics
OVM	Overseas Visitor Manager
PALS	Patient Advice and Liaison Service
PAYE	Pay As You Earn
RAG	Red, Amber, Green
RTI	Real Time Information
RtR	Right to Rent
RtW	Right to Work
SAFO	Specified anti-fraud organisation
SCRa	Summary Care Record application
SOC	Strategic Operations Command
SVEC	Status verification, enquiries and checking
SVM	Safety valve mechanism
UKVI	UK Visas and Immigration

# Executive summary

## Introduction

In common with many other European countries, the UK has a combination of laws and processes in place to regulate access to employment, benefits and services. This is to ensure those that are entitled to them have access, while also preventing access to those who are not in the UK legally or have conditions attached to their permission to stay which limits their entitlements. This is called ‘the compliant environment.’<sup>1</sup>

The compliant environment comprises 6 areas within which the Home Office works with other public bodies and the private sector to uphold the law and conduct the necessary checks. They are:

**Work** – employers should make sure prospective employees have the right to work in the UK. An individual will not be able to work if they do not have permission to live in the UK and to work here (**Right to Work**).

**Housing** – landlords should make sure prospective tenants have the right to rent a property in England. If an individual does not have permission to live in the UK, they will not be able to rent a privately owned property (**Right to Rent**).

**Public funds** – An individual must have permission to live in the UK and to access public funds to claim most benefits, like Universal Credit or Child Benefit. If the permission to stay ends, payments for existing benefit claim(s) will also be stopped. If someone has paid National Insurance contributions, they may still be able to claim contributory benefits (**Benefits**).

**Health** – an individual may be asked to pay for some types of healthcare if they are not lawfully living in the UK on a properly settled basis. Whether someone pays may differ depending on location in the UK, but treatment considered to be immediately necessary or urgent will always be provided, even if someone has not paid in advance – they will be asked for payment afterwards. If someone does not pay for the cost of treatment, future applications for permission to enter or stay in the UK may be refused (**Access to Healthcare**).

**Banking** – an individual must have permission to live in the UK to hold a current account. If they do not, they will not be able to open a current account. If someone stays in the UK without permission and already has an account, it will be closed (**Banking**).

**Driving** – an individual must have permission to live in the UK to hold a UK driving licence; an application will be rejected if they do not have permission. If someone stays in the UK without permission and already has a licence, it will be revoked (**Driving**).

In response to Recommendation 7 of the Windrush Lessons Learned Review, the Home Office committed to a long-term evaluation of how the compliant environment’s measures operate – individually and cumulatively – to ensure that both its rules and its protections work effectively.

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<sup>1</sup> Formerly known as the ‘hostile environment’.

This report forms part of the broader ongoing programme of work to review the compliant environment that includes wider outputs, which have included:

- [a review of external evidence of the compliant environment: literature synthesis of external evidence and best use of international examples](#)
- [evaluations of the Right to Rent Scheme](#)

This report comprises 2 components. First, it covers the findings from a review of internal data and operational processes. It specifically summarises the workings of the compliant environment, outlines how each individual measure works in practice, and details demographic characteristics of those who were subject to enforcement activities. Second, drawing on the findings and gaps identified, it presents an approach for evaluating the compliant environment both in its entirety and as a set of individual measures.

The measures that make up the compliant environment have been put in place over a long period of time, by several governments; however, for analysis, this report has focused on the period from the implementation of the Immigration Act in July 2014 to March 2018, the period immediately prior to the Windrush scandal.<sup>2</sup>

This executive summary briefly summarises each chapter in the report.

## Approach

A variety of methods were used to compile this report including: a series of interviews with stakeholders in other government departments (OGDs) involved in enforcing the measures; analysing internal data to understand the volume and impact of enforcement activities; detailed process maps of how the measures worked pre and post the Windrush scandal; and reviewing available data to assess impact and approaches to economic analysis in more detail.

## How the compliant environment works

To understand how the compliant environment works, we can consider each measure as a series of checks applied at different points to ascertain someone's right to access work, benefits and services. Depending on someone's situation, it is possible to interact with these checks in different ways, including by avoiding them unintentionally or intentionally.

In fact, each of the six measures works differently, both in terms of who they apply to and how they are implemented and enforced. For example, Right to Work checks apply to all employees over 16, including British citizens, while the driving measures apply only to irregular migrants. This means that the cumulative or collective impacts of the compliant environment will vary depending on each individual's choices and circumstance.

Compliance checking works in two ways:

- **Service denial:** Access to work, benefits or services are denied upfront when managed by those outside the Home Office – OGDs, employers, landlords, banks (opening accounts) and the NHS (free secondary healthcare). In terms of who they

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<sup>2</sup> Following the Windrush scandal, restrictions on proactive data sharing were put in place as a temporary and immediate safeguard.

apply to, these checks vary, but data on denials are not available to the Home Office to assess.

- **Revocations:** Some measures also revoke access to services of those deemed no longer residing legally in the UK. The Home Office works with OGDs to action these (benefits and driving licence revocation, and employer nudge letters). Revocations aim to apply to irregular migrants known to the Home Office.

The key factor that determines a person's relationship with the compliant environment is their legal status, and this can change over time (for example, they can appeal an application to stay in the UK, leave and come back under different visa conditions). Other factors which influence someone's involvement with the compliant environment are the Home Office's own decision criteria around status, and the person's use of services.

To ensure a person has an entitlement to access work, benefits and services, the Home Office proactively shares with OGDs data on people deemed to be living unlawfully in the UK to check whether they are employed, are receiving benefits or can hold a UK driving licence.

Between 2014 and 2018, the Home Office shared 448,800 individuals' records with OGDs, and 63,786 individuals were subject to actions. The most common actions were having a UK driving licence revoked or a letter being sent to the employer advising them that their employee may not have the right to work in the UK. Most individuals were subject to one action, while 3,713 had two and 182 received three or more actions (including some individuals being subject to the same action more than once over this period).

In terms of characteristics of those whose data was shared (whether or not action was taken), two-thirds were male and almost three-quarters were between 18 and 39 years old. The most common nationalities included in the data during this period were Indian, Pakistani, Nigerian, Bangladeshi and Chinese. Together, these nationalities made up half of the shared cases.

## Overview of each of the six measures in the compliant environment

This report covers each of the six measures in more detail in terms of how they work and what enforcement activities are included. The amount of data available varies depending on the measure.

### Right to Work and Right to Rent

Employers and landlords conduct the main upfront checks relating to eligibility to work and rent. Besides these checks, the Home Office carries out a variety of enforcement activities, including proactive data sharing with OGDs and issuing civil penalties. Letters, known as employer nudge letters, are sent out to employers whose employee may not have the right to work in the UK.

The Home Office can issue civil penalties to landlords and employers found to be non-compliant with the rules. In the period pre-Windrush, the Home Office issued 9,882 civil penalties related to Right to Work (total cost £160 million), and 417 penalties (total cost £272,000) related to the Right to Rent Scheme.



## Driving and benefits

The Home Office takes proactive action relating to these two measures by sharing data with OGDs about migrants it deems irregular, to revoke benefits and driving licences of those no longer eligible for them.

## Measures involving data sharing with OGDs

The Home Office holds more data on activities relating to restricting access, e.g. driving, benefits and Right to Work. Data shared with OGDs revealed 63,786 individuals were subject to actions.

**Table 1: Summary of data sharing activities and related demographics**

Actions	Driving revocations	Benefits revocations	Employer nudge letters
Count of actions	35,583	4,028	28,262
No of individuals	35,556	3,851	27,406
Female	17%	76%	35%
Male	83%	24%	64%
Most common nationalities	Pakistani (28%) Indian (22%) Bangladeshi (11%)	Nigerian (19%) Ghanaian (13%) Jamaican (11%)	Indian (19%) Pakistani (13%) Nigerian (12%)

## Banking

By law, banks are required to check the immigration status of their prospective customers before opening a bank account, but they do not share the result of these checks with the Home Office. The measure also requires the closure of bank accounts held by irregular migrants. In practice, the closure of bank accounts only happened between January and March 2018. To enable checks, the Home Office shares its data with banks via a third-party specified anti-fraud organisation. Data sharing is currently on hold while the new data sharing platform is established, therefore there is very little data available to assess this measure.

## Healthcare

While accident and emergency (A&E) and primary healthcare are free to all, the NHS is a residency-based healthcare system, so only people who are 'ordinarily resident' in the UK, or otherwise exempt from charges, are eligible for free care overall. Temporary migrants coming to the UK for longer than six months<sup>3</sup> need to pay an [Immigration Health Surcharge](#) which

<sup>3</sup> With the exception of those with a Health and Care worker visa.

allows them to access most NHS services without further charge. The Home Office can assist NHS Trusts in establishing someone's immigration status where needed but does not decide who has access to free secondary healthcare.

Those who should pay for secondary healthcare but do not, including irregular migrants, have information about their debts passed on to the Home Office via the relevant healthcare body if they are for more than £500 and have been outstanding for longer than two months with no repayment plan<sup>4</sup>.

There were 12,112 debtors pre-Windrush – 63% were women; the average age of debtors was 44 years; and the most common nationalities were Indian (14%), Nigerian (13%) and American (10%). Note that not all debtors are irregular migrants.

### Immigration status over time

Immigration status can be fluid. To understand this better, this report followed up the individuals whose data had been shared and subsequently matched with OGDs before the Windrush scandal to see how their immigration status may have changed. The Home Office chose 21 May 2021 to conduct this review. At this particular review point, at least 60% of those who had been the subject of an employer nudge letter, or a benefit revocation had regularised (meaning they were now legally in the UK either on a temporary or permanent basis)<sup>5</sup> while 41% of those with driving revocations had left the UK. To understand what this means in the longer term, more follow-ups over time are needed.

### OGD partners: cross-cutting findings on data sharing

A total of 18 interviews with colleagues in HMRC, DVLA, DWP and NHS Trusts were conducted to understand better the departments' views on working with the Home Office and, in some cases data sharing.

Participants generally described a good working relationship with the Home Office. However, OGDs emphasised the importance of involving OGDs early in changes to Home Office policy to enable them to prepare for new processes and be able to communicate the policy changes to their customers.

Participants emphasised the importance of up-to-date case information from the Home Office, as OGDs rely on this in their own decision-making. While interviewees felt positive about increased digitalisation of processes, some raised the importance of also ensuring that future planning includes the needs of those who have legacy documents.

Overall, interviewees felt early involvement in Home Office policy thinking, continuous communication between departments to align and understand each other's work, and swift action to resolve any issues for customers were important.

### Changes since Windrush

In response to the Windrush scandal, the Home Office implemented various changes, including to stakeholder engagement strategies, published guidance, and safeguards in the data sharing processes. Changes included making it easier for British citizens without a

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<sup>4</sup> The Department of Health and Social Care (DHSC), NHS Scotland, NHS Wales or NHS Northern Ireland.

<sup>5</sup> For a definition of regularisation, see [Outcomes of individuals subject to data sharing](#) in Section 4.

passport to evidence their right to work by accepting short-form birth certificates, and introducing a means for tenants to challenge a finding that they do not have Right to Rent ('minded to serve').

In terms of data, new safeguards in the system have been introduced to prevent or alert the Home Office if someone has incorrectly been subject to the measures of the compliant environment. This includes a series of changes to improve the quality and handling of personal data, and the development of three safety mechanisms:

- **Safety valve mechanism (SVM):** A referral mechanism to ensure staff can raise concerns related to specific cases, which will be reviewed by experts in the department.
- **Triple lock mechanism:** Improved protection in the data sharing process, which involves increased data quality checks before sharing the data, and manual immigration status checks being undertaken on cases before applying any sanctions.
- **Routes to Redress:** A free customer contact and resolution service for those who believe their access to work, benefits or services have been affected by mistake.

## Monitoring and Evaluation Strategy to assess the compliant environment

The long-term evaluation will aim to:

- assess the effectiveness and efficiency of how the compliant environment is implemented
- understand the impact of each measure and the cumulative impact of the compliant environment
- develop a monitoring strategy to assess ongoing performance and inform policy development.

The evaluation will therefore be a mix of process and impact analysis and will draw on a variety of quantitative and qualitative methods.

Evaluating the compliant environment is complex and the measures operate in different ways. They potentially affect an irregular migrant and their behaviour in diverse or multiple ways, such as:

1. non-compliance – when someone avoids checks on purpose or unintentionally
2. upfront denials – when those conducting checks deny someone access to services due to their irregular status
3. revocations – a service is revoked as the individual is no longer deemed to have the right immigration status to access work, benefits or services.

This means that the cumulative effect can vary depending on someone's circumstances. Therefore, the compliant environment will be assessed via the following strands:

- Assess the six individual measures separately
- Draw up a monitoring plan for the compliant environment safeguards
- Establish an ongoing monitoring strategy

- Cross-cutting assessment – draw on research with stakeholders, which could include migrants and other cross-cutting areas, such as the Windrush Compensation Scheme, assessment of the individual measures and economic analysis.

This report has assessed information available and identified existing gaps. In some instances, such as driving measures, internal data will go a long way to address the gap. However, for other more complex measures, such as Access to Healthcare and Right to Work, this will warrant more detailed evaluation, given the volume of people potentially impacted, the importance of access and the lack of readily available data from third parties.

# 1. Background

In March 2020, Wendy Williams published the [Windrush Lessons Learned Review](#), which was commissioned on 2 May 2018 by the then Home Secretary, stated that. The review examined “the key legislative, policy and operational decisions that led to members of the Windrush Generation becoming entangled in measures designed for illegal immigrants” to “identify the key lessons for the Home Office going forward.”

The review resulted in 30 recommendations, which the Home Secretary accepted in June 2020. Following this, in September 2020, the Home Office published its [Comprehensive Improvement Plan](#), setting out how the recommendations would be taken forward.

## Recommendation 7

Recommendation 7 of the [Windrush Lessons Learned Review](#) which was commissioned on 2 May 2018 by the then Home Secretary, stated: *“The Home Secretary should commission officials to undertake a full review and evaluation of the hostile/compliant environment policy and measures – individually and cumulatively. This should include assessing whether they are effective and proportionate in meeting their stated aim, given the risks inherent in the policy set out in this report, and its impact on British citizens and migrants with status, with reference to equality law and particularly the public sector equality duty. This review must be carried out scrupulously, designed in partnership with external experts and published in a timely way.”*

In common with other European countries, the UK has in place a framework of laws, policies and administrative arrangements, introduced under successive governments, to ensure access to work, benefits and services are only permitted for those who are lawfully present in the UK and with the right to access them. This framework is often referred to as ‘the compliant environment’ but has previously been known as ‘the hostile environment’.

As set out in the [Comprehensive Improvement Plan](#) the aim of the compliant environment is to: discourage those thinking of coming to the UK unlawfully from doing so; secure compliance with, and support the enforcement of, UK immigration laws; protect taxpayers’ money; and protect vulnerable migrants from the risk of exploitation by unscrupulous employers and landlords.

There are six measures which collectively make up the compliant environment:

- **Work** – employers should make sure prospective employees have the right to work in the UK. An individual cannot work if they do not have permission to live in the UK *and* to work here. (*Right to Work*)
- **Housing** – landlords should make sure prospective tenants have the right to rent a property in England. If an individual does not have permission to live in the UK, they cannot rent a privately owned property. (*Right to Rent*)
- **Public funds** – an individual must have permission to live in the UK *and* to access public funds to claim most benefits, like Universal Credit or Child Benefit. If the permission to stay ends, payments for existing benefit claim(s) will stop. If someone has paid National Insurance contributions, they may still be able to claim contributory benefits. (*Benefits*)
- **Health** – an individual may be asked to pay for some types of healthcare if they are not lawfully living in the UK on a properly settled basis. Whether someone pays may differ

depending on location in the UK, but treatment considered to be immediately necessary will always be provided, even if someone has not paid in advance – they will be asked for payment afterwards. If someone does not pay for the cost of treatment, future applications for permission to enter or stay in the UK may be refused. (*Access to healthcare*)

- **Banking** – an individual must have permission to live in the UK to hold a current account. If they do not, they cannot open a current account. If someone stays in the UK without permission and already has an account, it will be closed. (*Banking*)
- **Driving** – an individual must have permission to live in the UK to hold a UK driving licence; an application will be rejected if they do not have permission. If someone stays in the UK without permission and already has a licence, it will be revoked. (*Driving*)

The Comprehensive Improvement Plan outlines how the department intends to respond to Recommendation 7 by building on existing work to assess the measures individually and cumulatively. Three principles will underpin the work: ongoing regular monitoring and evaluation, ongoing external engagement, and transparency and openness to change to ensure the policies deliver the desired objectives.

## 2. Purpose and objective of this report

### Aims of this report

The evaluation of the compliant environment is complex and will be delivered in stages with a range of outputs at different times. Having first undertaken a review of existing external evidence (the subject of a separate publication), this report focuses on internal available information held by the Home Office and partners. Specifically, we have divided this report into two parts:

1. The first part uses the findings from the internal analysis to set out how the compliant environment works and who it might affect. In particular, it:
  - provides an overview of how the compliant environment works and details each individual measure
  - looks more closely at specific activities within each measure and the characteristics of those subject to enforcement activities.
2. The second part draws on findings from this report, along with the gaps identified, to propose a plan for a long-term monitoring and evaluation strategy of the compliant environment.

The data analysis in this report has focused on the period between July 2014 and March 2018, immediately prior to the Windrush scandal. While measures regulating access to work, benefits and services were put in place over several decades, we chose this time period to coincide with implementing the Immigration Act 2014, which drew together individual measures into a coherent strategy, and when specific age restrictions were put in place in early 2018 in relation to data sharing activities with other government departments (OGDs) and banks as a result of the Windrush scandal. In addition, COVID-19 led to the broader suspension of data sharing with OGDs, and the temporary pause of the issuing of civil penalties and debt recovery activity. Collectively, this means little data was shared following 2018. This aligns with the approach adopted in the Windrush Lessons Learned Review.<sup>6</sup>

This report draws on two previously published reports: [A review of external evidence of the compliant environment](#) and an independent [evaluation of the Right to Rent Scheme](#).

### Context to the evaluation

This report presents an approach to evaluating the compliant environment both in its entirety and as a set of individual measures and builds on previous work to evaluate aspects of the compliant environment.

Each of the six measures collectively comprising the compliant environment differ in their implementation and maturity, given that the Home Office introduced them at different times.

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<sup>6</sup> Note that while we have included published evidence for this specific period, the synthesis does include some research where fieldwork took place prior to 2014.

Measures also vary in their aims and who they affect. Some measures affect all the working population, such as Right to Work checks, while benefit restrictions apply to those with leave<sup>7</sup> and irregular migrants, and revocation of driving licences applies to irregular migrants.

This report focuses on data related to those deemed to have irregular status that are known to the Home Office. The focus of the report is to understand how these data can develop an evaluation strategy.

We primarily collected the data available in relation to the compliant environment to support operational activities and not for analytical purposes. In this review, we analysed these data to determine its applicability in assessing the impact of measures, and where further data collection may be required.

As a consequence of the Windrush scandal, many activities and operational practices changed significantly. In this report we are therefore exploring available data to understand how the Home Office worked prior to Windrush. We are also drawing on current practices and new data collected, to develop an ongoing monitoring and evaluation strategy.

This evaluation will seek to understand the current impact of the compliant environment and what effect the changes have had in safeguarding anyone unintentionally impacted through its measures. Given the complex nature of the compliant environment, this will require an innovative approach, which varies by measure.

## An evaluation strategy

Drawing on available external and internal evidence, this report proposes a feasible design to deliver an ongoing, mixed method process and impact evaluation. The aim of this is to build on existing evidence and available data to develop a comprehensive understanding of how the compliant environment is implemented and what the outcomes of the policy are, along with a set of key metrics to assess the ongoing performance of the measures.

In line with Recommendation 7, the evaluation is expected to deliver evidence to:

- understand the effectiveness of the measures attached to the compliant environment (process evaluation)
- assess the expected outcomes and impacts of the measures (impact evaluation).

## Reading this report

This report outlines work undertaken as part of the review of internal data. The focus of this report has been to understand and analyse the internal data available, identify gaps, and use the information available to draw up a monitoring and evaluation strategy. In terms of internal data, the report focuses specifically on the Home Office's data sharing activities and subsequent actions taken against those deemed to be in the UK illegally, in order to better understand the information that the data hold. These activities affected the Windrush Generation, as set out in [letters from the Home Secretary to the Home Affairs Select Committee \(HASC\)](#) from August 2018 onwards.

This report focuses on key activities attached to each of the six measures, particularly in terms of individuals who were subject to enforcement activities related to the measures. The findings

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<sup>7</sup> Someone with leave has legal permission to be in the UK.



of this report have been used to develop the monitoring and evaluation strategy presented in the last chapter to be used going forward.

Chapter 5 includes data sharing figures for the six measures; the Independent Chief Inspector of Borders and Immigration (ICIBI) has [published similar data](#), but note that time periods and definitions used mean that data may vary slightly.

### 3. Approach to scoping the evaluation

To assess the compliant environment, this report has explored each measure in detail to understand what its cumulative effects are, who may have been most affected and why. This understanding is important to enable a more in-depth process, impact and value for money evaluation of the compliant environment.

To ensure a holistic review of the impact of the compliant environment, multiple data sources were assessed: external sources (via a literature review, an international comparison and stakeholder engagement); and internal data sources and processes (data analysis and process mapping). This ensured that existing information was appropriately assessed and that evidence gaps were identified to inform the long-term evaluation design.

In this review the following methods were adopted:

#### Stakeholder interviews

To implement many of the measures which make up the compliant environment, the Home Office works closely with other departments. In particular, it has shared data with OGDs so that access to services can be revoked for those without the right to use them. To better understand the data sharing mechanisms pre- and post-Windrush, and the role of these departments, stakeholders involved in this area were interviewed. This took the form of semi-structured interviews with 18 people from HM Revenue and Customs (HMRC), the Department of Work and Pensions (DWP), the Driver and Vehicle Licensing Agency (DVLA) and NHS Trusts. Interviews with NHS trusts were focused on the general relationship between the NHS and the Home Office rather than bulk data sharing

#### Process mapping

To ensure the evaluation can properly cover and compare measures pre- and post-Windrush, we developed detailed process maps for each measure. This helped identify key decision points and develop an understanding of the data flows between 2014 and 2018 as well as the changes in processes since Windrush. Mapping processes also helped identify and locate all stakeholders involved, understand their views about how the measures should work, and identify sources and operational practices pre- and post-Windrush. We created the process maps by combining information from the Data and Sanctions Team, Civil Penalty Compliance Team and Strategic Operations Centre with internal documentation from the period.

#### Data analysis

Data are key to understanding the volume and impact of sanctions and data sharing activities (i.e., who the measures impacted and what the outcome was). The Home Office uses a variety of databases to perform its operational functions. We identified all data sources available between 2014 and 2018 which were potentially used to share data with other government agencies. This was the earliest available sanction data and was pre-Windrush. The analysis only included internal available data and was not a complete analysis of the compliant environment.

## Economic analysis

Costing the compliant environment is complex as it requires detailed information about resources to deliver measures, which is complicated by multiple partners (internal and external to the Home Office) delivering each measure. Economic analysis also requires clarity on outcomes delivered by the compliant environment as a basis for assessing the costs and benefits, where there are also several data gaps. The Home Office has reviewed internal data available to explore how best to carry out an economic analysis to support the evaluation of the compliant environment in the future, highlighting some of the evidence gaps the overall evaluation would need to collect to make this possible.

In addition, this review has drawn on the following work:

### Rapid external evidence review

To understand the existing evidence base and methods used to assess the compliant environment, we conducted a rapid evidence assessment to look at external evidence and identify evidence gaps in relation to the effectiveness, proportionality and impact of the compliant environment. The rapid evidence assessment considered evidence on the overall policy and the six individual measures comprising the compliant environment.

### International comparisons

We conducted a light touch comparison between the UK approach and a limited selection of three European countries (France, Germany and Spain) regarding irregular migrant access to work, benefits and services. This helped to assess how compliant environment measures compare to measures in other countries, and how future work can draw on evidence from these.

The [findings of this report have been published separately](#).

### Evaluation of Right to Rent

The Right to Rent Scheme obliges landlords and letting agents to check a prospective tenant's immigration status. The UK Government rolled out the policy across England between 2015 and 2016 and has since received attention from advocacy groups and the media. Following [an internal assessment](#) in 2015, the Home Office commissioned an external agency in 2019 to carry out an independent evaluation of the impact of the policy, focusing specifically on the concern that it may lead to discrimination. The research included surveys with landlords and a mystery shopping exercise that explored landlords and letting agents' decision-making processes and whether ethnicity or nationality of the prospective tenant was a factor in these processes.

The [findings from this research have been published separately](#).

## Strands in focus of this report

This report outlines in more detail the strands not covered in separate publications, in particular:

- Interviews with OGDs.
- A detailed overview of the processes involved in each measure and analysis around the number and demographic of those impacted by the measures.
- The changes made as a result of Windrush.
- A monitoring and evaluation strategy of the compliant environment going forward using the learnings from the external and internal reviews.

## 4. How the compliant environment works

This section outlines how the compliant environment works. It also looks in more detail at the activities where the Home Office has the most data available – its data sharing activities with OGDs pre-Windrush.

The reach of the different compliant environment measures varies, with Right to Work checks applying to all adults aged over 16, including British and Irish Citizens, and Right to Rent checks also applying to anyone above 18, regardless of nationality, wishing to rent privately (although the Right to Rent Scheme is currently only in operation in England). Other measures should only apply to known irregular migrants, such as revocation of UK driving licences or benefits. These measures also apply to those 18 years or over.

The six measures operate in two ways from an individual's perspective: either checks prior to accessing work, benefits or services deny access upfront; or the Home Office revokes access from engaging in proactive data sharing with OGDs.

**Revoking services:** The aim of proactive data sharing is to revoke services to which someone no longer has the right to access. This means a person's UK driving licence will be revoked and should be returned, or benefits will stop if the person no longer has a valid immigration status. This is also the case for limiting access to banking services with closure of existing accounts for those identified as being 'disqualified persons'; and where employers are reminded to check the legal status of their employees, as Home Office records indicate they no longer have the right to work in the UK. In these cases, the Home Office can identify who has had a service revoked.

**Denying services/upfront checks:** Following checks by landlords or employers, employment or a tenancy will be denied to a person who does not have the right to live and or work in the UK. The Home Office generally relies on others (banks, employers or landlords) to follow Home Office regulations and guidance to deny access to services to disqualified individuals. Home Office partners are not obliged to keep a record of people who have had a service denied. Regarding healthcare, while emergency treatment is free to all, access to secondary healthcare for free is not. Bodies administering NHS treatment are obliged to record invoices issued and funds recouped for those not entitled to free treatment. However, non-urgent treatment denied due to inability to pay upfront is not recorded.

While the Home Office offers checking services that employers, landlords and NHS Trusts can use, these services are intended to provide checking and confirmation of immigration status in ambiguous cases, and do not capture the full extent of denials.

Overall, this means that measures can affect individuals differently depending on their activities, and that the information on the measures held by the Home Office varies. Chapter 5 sets out how each measure works in more detail.

To understand the impact of the compliant environment, we can consider each measure as a series of checks applied at different points to ascertain someone's right to access work, benefits and services.

Irregular migrants can interact with the compliant environment in three different ways:

- By avoiding checks (intentionally or not) and becoming non-compliant.
- Being denied work, benefits, and services due to lack of status.
- Having benefits and services revoked due to a change in immigration status affecting eligibility.

This means that the cumulative impact of the compliant environment can vary.

The key factor that determines a person's relationship with the compliant environment is their right to reside legally in the UK and ability to prove it. However, immigration status can be fluid, which means access to work, benefits and services can vary over time. For example, a rejected or refused application to stay in the UK can be subsequently challenged (by appeal or judicial review)

al review), and individuals can leave the UK and then come back under different conditions. In practice, it means that someone can become irregular but then 'regularise' their status again, so the outcomes of the compliant environment can vary depending on the points in time. This makes implementing and evaluating the compliant environment complex. Understanding the time dependency will be important for the long-term evaluation.

Aside from legal status, two other factors are key to someone's experience of the measures of the compliant environment: the Home Office's own decision criteria around status (the criteria used to identify someone as being in the UK irregularly and take action), and the person's use of services. This has implications for the evaluation when assessing safeguards (decision criteria) and volume affected by each measure.

The impact of the compliant environment goes well beyond targeted enforcement actions. It aims to have a deterrent effect to ensure that those with no legal recourse to enter or stay in the UK do not attempt to access services, regularise their status or leave the country if they have no recourse to legalise, or simply do not attempt to come to the UK. These indirect impacts of the measures will also be an important aspect to explore.

## The irregular migrant population in the UK

Due to the difficulty in estimating the exact size of the irregular population, the government has not produced any official estimates since 2005. As described in the [recent joint work between the Office for National Statistics \(ONS\) and the Home Office](#), the definition and coverage of the irregular population is complex; some of the groups that can be included are:

- illegal entrants (i.e. those who remain illegally after entry)
- overstayers
- those with failed asylum claims
- those with a valid visa but not adhering to its conditions.

Status can also vary, with some people having been part of the irregular population for a long time and others only temporarily.

The last official estimate of irregular migration was published by the Home Office in 2005 and measured the 'illegally resident population'. This definition included those who entered the UK illegally (illegal entrants) and those who entered the UK legally but subsequently fell into illegal status when their visa expired (overstayers).

The Home Office and ONS have been discussing how existing data sources could look at irregular migration in the future as reflected in a [published note](#) in 2019.

This report specifically explores internally held data, but the overall monitoring and evaluation strategy will aim to assess policies in the overall irregular population too, as far as is possible.

## Overview of data sharing practices

The Home Office undertook data sharing activities to ensure that only those with legal rights to do so could access work, benefits and services. Pre-Windrush, the Home Office regularly shared data of people deemed to be unlawfully in the UK with OGDs directly and with banks via a third party. A detailed description of all measures is in Chapter 5.

In general, the data sharing became more restrictive, and hence more limited, after Windrush as a precautionary measure, although some data sharing recommenced in September 2021 with additional safeguards in place (detailed in Chapter 7).

In terms of cooperation between the Home Office and NHS Trusts in relation to data, the purpose is broader and related to rules around access to free healthcare for those not ordinarily residing in the UK. The Home Office can help NHS Trusts to confirm whether someone is eligible for certain treatments without making any further payments, such as whether the Immigration Health Surcharge has been paid or whether someone is exempt from charges. Healthcare bodies giving NHS treatment also share debt and repayment information with the Home Office, which can be considered when assessing future immigration applications. Prior to Windrush, [additional sharing measures](#) between the Home Office, NHS Digital and the Department of Health were in place but have since been discontinued.

### How data was and is shared with HMRC, DWP,<sup>8</sup> DVLA and DVA

The data and processes outlined in this section relate to sharing with OGDs in bulk. The report goes into more detail about this data sharing as the Home Office holds the most detailed information about the individuals who had services revoked.

The data of those deemed to be in the UK as irregular migrants were shared monthly and matched against DVLA, Driver and Vehicle Agency (DVA), HMRC and DWP records. The Home Office subsequently took action where appropriate when data matched.

The shared data were derived from the following data sources:

- In-country applications made through the Temporary or Permanent route which have received a negative casework decision, excluding European nationals.
- Refused asylum cases that have no right of appeal or are 'appeal rights exhausted'.
- Foreign National Offenders who have been served with a deportation order.
- Migrants served with a Notice of Removal (IS151a or RED notice) within the last 5 years.
- Absconders – migrants whose current whereabouts are unknown and may or may not be in the UK. They do not have leave to enter or remain in the UK, or have breached conditions imposed through temporary admission, temporary release, bail or release on a restriction order.

The data then went through further manual filtering to remove individuals who were under 18 years old, or individuals without sufficient details available.

There were three components to the data pre-Windrush:

- *Monthly data shared with OGDs* – containing individuals who received a negative casework decision in the previous month and have no barriers to removal.

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<sup>8</sup> HMRC do their matching and provide DWP with a filtered list rather than the Home Office directly sharing with DWP.

- *Stock* – legacy cases of individuals deemed to be irregularly in the UK and with records on internal Home Office databases. So, for example, data sharing with DVLA began in July 2014 (which would have included cases with a negative decision from the previous month). The stock shared for DVLA would be records of individuals with no legal right to reside in the UK prior to June 2014, no subsequent updates to their cases and, at the time of sharing the data, still had no outstanding barriers to removal.
- *Internal referrals* – these occurred when, for example, Home Office staff identified an irregular migrant potentially accessing, or attempting to access, benefits/services that they were not entitled to, and subsequently alerted the Interventions and Sanctions Directorate (ISD). Often these referrals had already been picked up by the standard monthly process.

This means that an individual with a history of applications to the Home Office can appear in data multiple times; for example, with their latest application from monthly data, as well as historic applications in stock data. This only affects a person if the data matching happens at different time points and if someone encounter a new measure at a later point in time. In April 2018, in the wake of the Windrush scandal, the Home Office restricted data sharing substantially, although it was still permitted in relation to individuals born after 1 January 1989 (when the Immigration Act 1988 came into force) since the Home Office was confident that anyone born after that date would have documentation, or there would be official records to evidence their arrival in the UK.<sup>9</sup>

After Windrush, an updated set of business rules to pull data from Home Office systems strengthened the monthly data sharing. These updated business rules act as safeguards, the ‘triple lock system’ (data extraction rules to ensure only relevant data are shared; random quality checks on the data, and a manual check on matched records). See Chapter 7 for more details of data sharing and safeguards post-Windrush.

### Outcomes of individuals subject to data sharing

To understand better the cumulative impact of data sharing as well as the choices and options for those subject to enforcement actions, this report explores outcomes for irregular migrants involved in the data sharing. This helps to identify how we can explore outcomes over time in the evaluation going forward.

To do this, a snapshot date of 23 May 2021, which corresponds to the date the analysis was conducted, was used to illustrate the individual’s journey. The outcome of this journey was grouped into one of four categories. It should be noted that, as this is a snapshot, we cannot make any conclusions about it, as it does not tell us at what point individuals achieve the outcome, whether it is permanent, and to what extent Home Office activities had an influence (detailed further in Chapter 5).

The four outcome categories used in the evaluation as at 23 May 2021 are as follows:

**Regularised**, meaning that the individual had indefinite leave, had naturalised as a British citizen, been granted asylum or humanitarian protection, or obtained temporary leave to remain/enter. This includes people with section 3C leave, which ensures a person who makes an in-time application to extend their leave does not become an overstayer and continues to have rights while they are awaiting a decision on that application.

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<sup>9</sup> The ICIBI report: [An inspection of the Home Office’s use of sanctions and penalties \(November 2019 – October 2020\)](#) sets out more details on Home Office decision rationale related to the chosen dates on page 71, footnote 133.



**Under review**, meaning that the individual had an outstanding application or has challenged a negative casework decision via an available channel, such as an administrative review or appeal.

**Of interest**, meaning that the individual had no outstanding application, was appeals rights exhausted, in immigration detention or prison, or was in a position where Home Office Immigration Enforcement has an interest in considering taking action related to an individual. It is possible that an unknown number of people in this group had left the UK.

**Left the UK**, meaning that the individual had been identified as having likely left the UK, based on the information available to the department.

## Summary of characteristics of the pool of migrants deemed irregular

This section refers to the data of irregular migrants shared with OGDs (DVLA, DVA, HMRC and DWP). There are some issues in these data pre-Windrush, mostly relating to data retention issues and the historical manual management of data (see Appendix A for more details on data quality). This resulted in an incomplete data set, and therefore, the counts of people in the dataset, as presented below, may not be fully accurate. Nevertheless, it is comprehensive enough to be of interest for this report.

In the period from November 2014 to March 2018, the Home Office shared 666,422 details with OGDs, corresponding to 448,800 individuals who appeared on Home Office systems to not have rights to reside in the UK, or to have certain conditions on their visas restricting their access to work, benefits or services.

Of the 666,442 details shared, 217,622 records were about individuals who had been included in a previous data share. Most of the duplicates were stock data shared with HMRC and DVLA at different time periods, although a sizeable minority (above 60,000) appeared in monthly data more than once. This may be due to the changing status of an individual; an additional negative decision could mean they were included once more in the data sharing.

Note that although a relatively high number of individuals' details were shared more than once, this does not mean that enforcement action was taken; action only took place if the data matched with OGDs' records, and if OGDs deemed action to be appropriate.

It should be noted that some data shared pre-Windrush belonged to individuals that should not have been included in the data in the first place. Tables 2-4 provide some background information on the people within these data shares with OGDs.

**Table 2: Age of unique individuals within the data share with OGDs**

Age (years)	Count of individuals	% share
18-29	162,292	36.2%
30-39	169,891	37.9%
40-49	72,273	16.1%

<b>50-59</b>	24,029	5.4%
<b>60+</b>	11,908	2.7%
<b>Unconfirmed<sup>10</sup></b>	8,407	1.9%

**Table 3: Gender of unique individuals within the data share with OGDs**

<b>Gender</b>	<b>Count of individuals</b>	<b>% share</b>
<b>Female</b>	147,856	32.9%
<b>Male</b>	299,964	66.8%
<b>Unknown</b>	980	0.2%

**Table 4: Most common nationalities of unique individuals within the data share with OGDs**

<b>Nationality</b>	<b>Count of individuals</b>	<b>% share</b>
<b>Indian</b>	74,353	16.6%
<b>Pakistani</b>	57,824	12.9%
<b>Nigerian</b>	39,960	8.9%
<b>Bangladeshi</b>	33,127	7.4%
<b>Chinese</b>	27,782	6.1%

As seen in the tables above, of the 448,800 individuals whose details were shared, roughly three-quarters were between 18 and 39 years old, and two-thirds were men. Indian, Pakistani, and Nigerian nationals were the most common nationalities; these three nationalities together accounted for over a third of the individuals.

The purpose of the data share was to ensure that only those who were entitled to hold a UK driving licence or claim benefits did so. In addition, letters were sent out to employers registered with HMRC to ask them to check their employees' immigration status (referred to as an 'employer nudge letter').

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<sup>10</sup> Either data was not available, or it was unclear what age the individual had recorded on the system at the time when data was shared.

As seen in Table 5, during the pre-Windrush period, 67,873 sanctions (revocations of driving licences or benefits) or actions (employer nudge letters) were taken during this period, corresponding to 63,786 individuals.

Almost all the individuals who had an action taken against them had a driving licence revoked or their employer received a letter requesting that they check their status. Most individuals had one action taken, 3,713 had two actions taken and 182 received three or more actions. Those who received three or more actions included individuals who received multiple actions in the same measure. Among those with more than one action, the most common combination was one nudge letter and one driving revocation (2,214 individuals), although note that it is the employer, not the migrant, who receives the nudge letter.

Overall, roughly 14% of individuals whose data was shared by the Home Office received a sanction, or their employer received a letter.

**Table 5: Count of individuals and actions resulting from OGD data share prior to Windrush**

Type of action	Count of distinct individuals per measure	Count of actions
<b>Driving licence revocation</b>	35,556	35,583
<b>Employer nudge letter</b>	27,406	28,262
<b>Public fund revocation</b>	3,851	4,028
<b>Total</b>	<b>63,786</b>	<b>67,873</b>

*Note: The total count of distinct individuals is less than the sum of distinct individuals by type because some individuals received multiple types of actions.*

### Implications for the evaluation

Chapter 5 highlights the differences in enforcement of each measure, and the depth of data the Home Office therefore holds for each measure. This also shows the varying level of information already available about those subject to enforcement activities by measure and any unintended consequences.

These differences will be reflected in the long-term evaluation plans which sets out how existing availability of data will be a key consideration for the extent of work needed going forward.

It is also clear that the cumulative impact of the measures will vary as individuals will have different levels of experience of the measures, and further research needs to explore this.

Furthermore, it also shows that the number of individuals affected directly by some measures is relatively small compared to the pool of individuals deemed to not have an immigration status. Similarly, the numbers subject to action also vary substantially by measure. Going forward, the evaluation will explore this in more detail but understanding outcomes over time will be important.

## 5. Overview of each of the six measures in the compliant environment

This chapter presents a detailed explanation of how each measure works, along with a contextual overview to help place the measure in the broader UK context. The chapter also includes the result of the analysis of internal data and summarises key evidence gaps.

The sections on each measure vary in detail. This is due to the complexity of each measure, its reach and the extent of activities, and data attached to it.

Please note that percentages in this chapter are rounded and therefore may not add up to 100.

### The Right to Work Scheme

This measure aims to ensure that only those with legal status that includes the permission to work are accessing employment in the UK. Therefore, employment checks apply to the whole adult working population above 16 years old,<sup>11</sup> regardless of nationality or immigration status. It relies primarily on employers to conduct immigration checks prior to employment.

The law preventing illegal working is set out in various pieces of legislation introduced after 1971,<sup>12</sup> and was last updated in the 2016 Immigration Act. The Asylum and Immigration Act 1996 introduced the rules relating to Right to Work checks by UK employers.

#### How the measure is implemented

Employers have a responsibility to check the immigration status of their prospective employees. To assist employers, the Home Office offers an online checking service,<sup>13</sup> an employer checking service,<sup>14</sup> and an established Employer Enquiry helpline. These services are for employers checking the immigration status of prospective employees who do not have [British or Irish citizenship](#) in the first instance. The Home Office also publishes [guidance and codes of practice on how employers should conduct Right to Work checks](#).

The department conducts enforcement operations against employers suspected of employing irregular migrants or migrants without the requisite permission to work. In these cases, a civil penalty can be issued to employers who cannot establish a statutory excuse. This can be up to £20,000 per worker or a prosecution, which may result in a fine or custodial sentence in serious criminal cases.<sup>15</sup>

Other actions the Home Office may take include Compliance Orders and Closure Notices. For limited companies, the department can refer the company to the insolvency service to consider director disqualification.

The liability within the legislation sits with the employer, although it is also a criminal offence to work illegally.

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<sup>11</sup> While employer checks are carried out on those aged 16 years old and above, the Home Office shares data on those aged 18 years old and above.

<sup>12</sup> Immigration, Asylum and Nationality Act 2006 (sections 15 to 25); Immigration Act 1971 (section 24B) and Immigration Act 2016 (Schedule 6).

<sup>13</sup> An electronic system allowing employers to check whether a person is allowed to work in the UK and, if so, the nature of any restrictions on that person's right to do so.

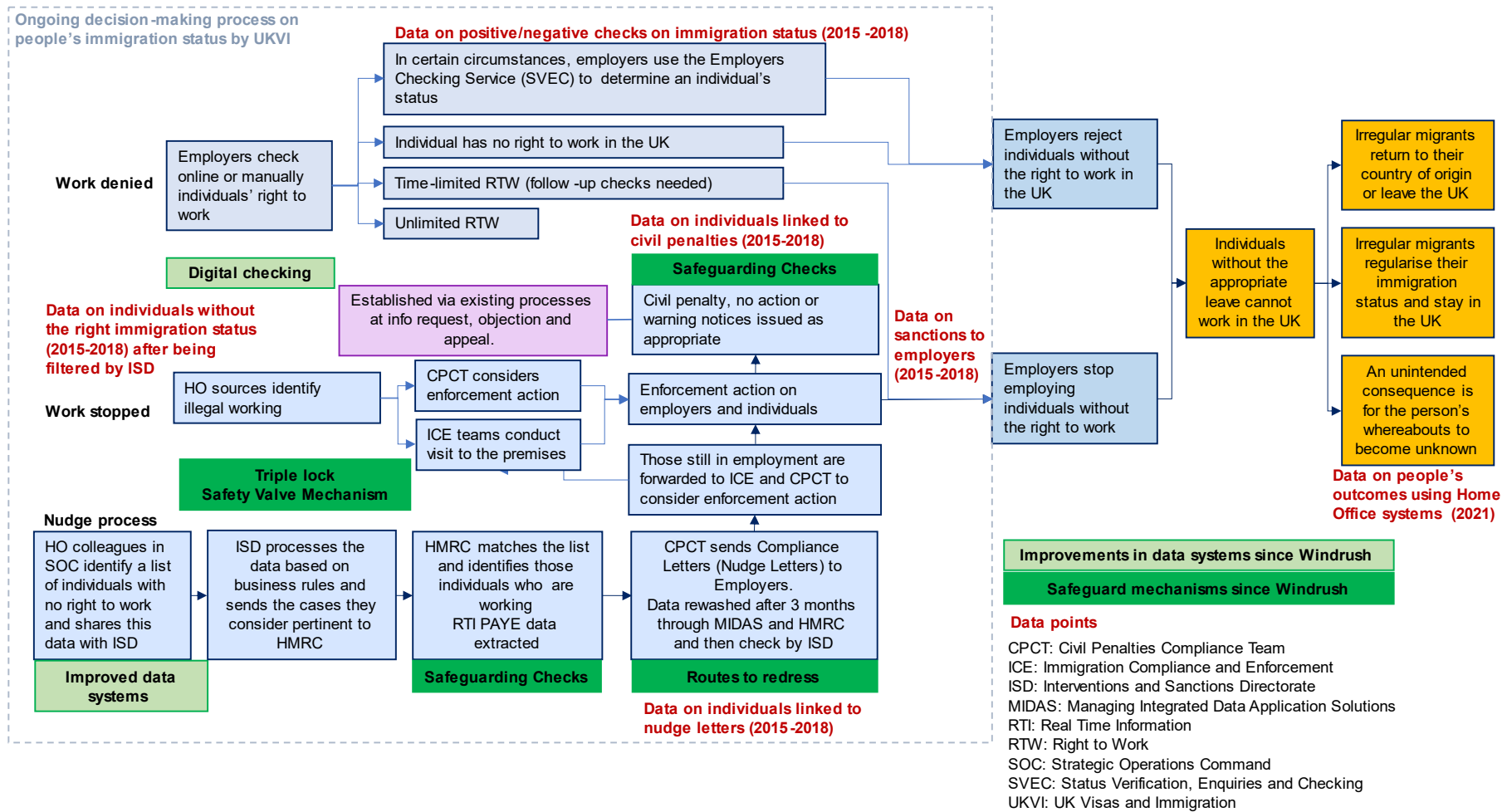
<sup>14</sup> An enquiry and advice service for employers operated by the Home Office.

<sup>15</sup> See Section 5 of [Employer's guide to right to work checks](#) for details of sanctions that may apply.

The Home Office also undertakes additional operational activities, such as issuing employer nudge letters. This involves the Home Office working with HMRC to alert employers via letter that an employee may not have permission to work. The focus of this activity is to ensure the employer acts. It will be at the employer's discretion what they communicate to the employee.

Overall, this measure is the most wide reaching of the six measures within the compliant environment.

Figure 1: Overview of the Right to Work measure



## Contextual overview

To give a broader perspective, the report includes some overall data regarding how different demographic groups interact with work, benefits and services.

In 2020, the Annual Population Survey reported that over half of the adult population (61%) was employed. The group with the highest employment rate was the 35 to 49-year-olds (85%). Overall, 52% of the employed population in this sample were men and 48% were women.<sup>16</sup>

In the UK, owner-only businesses are very common; only a quarter of all private businesses (24%) had employees in 2020. The greatest number of businesses were in the construction sector, professional services, technical activities, wholesale and retail.<sup>17</sup>

## Summary of analysis of the measure

### Data sharing: employer nudge letters

The Home Office sends out letters to employers where employees were identified as not having the right to work. While the Home Office encourages the employer to conduct these checks, employers do not have to report back on what actions they took after receiving the letter. However, subsequent matching exercises are undertaken to see if the employers who received the letters have continued to employ anyone deemed not to have the right to work. If this is the case, liability for a civil penalty may be considered.

Between March 2015 and December 2017, the Home Office sent 28,262 nudge letters<sup>18</sup> to employers.<sup>19</sup> Of those, 856 were repeat letters sent about someone who had already been the subject of an earlier letter. This figure excludes instances where multiple letters were sent out at the same time about one person, such as someone with multiple employers who were notified at the same time. These were counted only once.

To explore demographics, the analysis has focused on individual employees rather than the number of letters sent. A total of 27,406 employees had a nudge letter issued about them.

- The letters referred to employees, 64% of whom were male (17,676) and 35% (9,710) female.<sup>20</sup>
- The most common age group were employees aged between 30 to 39 (48%, 13,200), followed by 29% (7,903) aged between 18 and 29. Only 6% (1,511) of nudge letters related to people 50 years old or over.
- Indian nationals were the most common nationality (19%, 5,284), followed by Pakistani nationals (13%, 3,441) and Nigerian nationals (12%, 3,424). Together with Bangladeshi nationals (8%, 2,144), these nationalities made up over half of all people subject to this measure.

Looking at individuals' outcomes as of May 2021, of the individuals affected by nudge letters pre-Windrush:

- 60% (16,377) had regularised their immigration status, of which 55% had done so permanently

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<sup>16</sup> [Annual Population Survey 2020](#)

<sup>17</sup> [Business population estimates 2020](#), Department of Business, Energy and Industrial Strategy

<sup>18</sup> Note that some data, particularly from 2015, is missing.

<sup>19</sup> A total of 32,129 nudge letters were analysed, with 4,000 records removed once data was deduplicated on person ID and the date the nudge letter was sent (letters issued on same day counted as one).

<sup>20</sup> Twenty people did not have a gender recorded.

- 8% (2,275) were identified as cases under review
- 13% (3,477) were of interest to Immigration and Enforcement (IE) 18% (4,965) had likely left the UK, based on the information available to the department

Irregular migrants in the UK can get practical and financial assistance from the Voluntary Returns Service to return to their country of origin if they fulfil certain criteria. Some migrants may voluntarily leave the UK without formally informing the Home Office of their departure, some of whom may later be identified at embarkation controls or by a variety of data matching initiatives. In some cases, the Home Office can detain irregular migrants and enforce their removal from the UK. In total, 11% (3,114) of individuals on the database had a recorded return (voluntary or enforced) following their first nudge letter referral, of which most (87%, 2,700) of recorded returns were voluntary. Among all returnees, the vast majority (2,647) of individuals were not recorded as having returned to the UK as at 23 May 2021.<sup>21</sup>

### Civil penalties and disqualifications

Civil penalties are financial penalties issued to employers found to be employing someone without the requisite right to work. These penalties can be a consequence of various actions by the Home Office, including unannounced visits, or due to failing to act appropriately after receiving a nudge letter.

From 3 March 2014 to 29 March 2018, there were 9,882 initial civil penalty notices issued regarding 14,380 employees without the right to work. The total debt from these cases was £160,297,225, or an average of £16,221.13 per penalty.

Most civil penalties were generated from unannounced enforcement visits (78%) while 22% originated from the data sharing between the Home Office and HMRC.

Civil penalties originating from enforcement visits related to 85% (12,216) of all employees included in a civil penalty. In terms of demographics:

- Most individuals were aged between 18 and 29 years old (43%, 5,245), followed by 36% (4,417) of individuals aged between 30 and 39.<sup>22</sup>
- Only 6% (700) of employees were 50 years old or over.
- Bangladeshi nationals were most commonly the subject of a civil penalty (23%, 2,793), followed by Pakistani nationals (19%, 2,292) and Indian nationals (17%, 2,053).<sup>23</sup>

Enforcement visits also made up 84% (£134,282,225) of the entire debt derived from civil penalties being issued.

Civil penalties issued following an employer nudge letter related to 15% (2,164) of all employees affected by enforcement of work regulations. In terms of value, this made up 16% (£26,015,000) of the entire debt. The age and nationality makeup of employees included in a civil penalty resulting from a nudge letter differed slightly from those of employees included in a civil penalty resulting from an enforcement visit:

- Most individuals included in a civil penalty resulting from a nudge letter were aged between 30 and 39 years old (48%, 1,038), followed by 31% (671) of individuals aged between 18 and 29.

<sup>21</sup> Voluntary returnees are subjected to a two- or five-year re-entry ban depending on the time spent in the UK as an irregular migrant.

<sup>22</sup> Data on gender was not available at the time of the analysis.

<sup>23</sup> These penalties ranged from 3 March 2014 to 29 March 2018.



- Only 4% (94) of employees were 50 years old or over.
- Indian nationals were the nationality most included in a civil penalty following an employer nudge letter (23%, 499), followed by Nigerian nationals (16%, 354) and Pakistani nationals (11%, 247).

Between years ending 31 March 2015 and 2019, 425 business directors were disqualified.

### Evidence gaps and insights

The Right to Work Scheme includes a broader variety of activities than other measures. It also has the highest number of persons potentially impacted by enforcement activities, either via sanctions, nudge letters or employer checks. It is a measure where internal data will be insufficient to assess impacts, as most employees will encounter this measure via employer checks. Complexity increases as the Scheme can apply to those living irregularly in the UK and working, and those residing legally but without the permission to work or with restrictions to working hours etc.

Future work will need to collect additional data to better assess the implementation and impact of this measure. Some areas to explore include employers' understanding of the measure and changing employment structures and practices. In addition, digital checking and digital status are likely to be explored in further assessments.

## The Right to Rent Scheme

The Right to Rent Scheme aims to restrict private tenancies in England to those with legal rights to live in the UK. This means that the checks apply to all prospective tenants aged 18 and over, regardless of nationality.

The Right to Rent Scheme relates to all new private rental sector tenancies in England. The liability sits with the person letting/subletting so enforcement is broad.

The 2014 and 2016 Immigration Acts underpin this measure. The government initially introduced the Right to Rent Scheme in phases in 2014 before being rolled out across England at the start of 2016, alongside additional powers granted to landlords to evict due to immigration status concerns.<sup>24</sup> The scheme was subsequently extended in the 2016 Act to include new offences for non-compliant landlords/agents with the addition of new processes detailed below.

### How the measure is implemented

As with the Right to Work Scheme, Right to Rent relies on those outside the Home Office to check that the prospective tenant has the right to reside and rent in the UK. Landlords or letting agents in England must check that all new tenants, sub-tenants and paying house guests have a right to rent. They do this by recording checks of prospective tenants' documentation; evidence of having conducted these checks provides landlords a statutory excuse against a civil penalty. In most cases, this involves a check via Home Office online checking services or a face value document check with no contact with the Home Office.

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<sup>24</sup> This pilot phase was subject to [an evaluation](#) which was published in October 2015.

On 25 November 2021, the Home Office launched a new digital right to rent service. The digital service enables landlords to undertake Right to Rent checks in real time on those migrants eligible to use the service.<sup>25</sup>

If a landlord is found to have knowingly let to an individual without lawful status, they may be liable to a civil penalty of up to £3000, or a custodial sentence (though the latter has not yet been applied).

To assist landlords and letting agents, the Home Office offers a variety of support, including:

- [Code of practice on right to rent: civil penalty scheme for landlords and their agents](#)
- [Code of practice for landlords: avoiding unlawful discrimination when conducting 'right to rent' checks in the private rented residential sector](#)
- [Landlord's guide to right to rent checks](#)
- [Right to Rent Checks: A user guide for tenants and landlords](#)
- A helpline and an online tool for confirming if a prospective tenant's documents provide a right to rent (note: the online tool does not verify an individual's right to rent).
- The [Landlord Checking Service \(LCS\)](#), which can confirm an individual's right to rent, where an individual is unable to prove their right to rent by any other means.

Finally, landlords can sign up for updates on the Right to Rent Scheme on [GOV.UK](#).

An individual without an unlimited or time-limited right to rent cannot rent privately unless they are granted 'Permission to Rent'. This is a safeguard awarded by the Home Secretary under s21(3) of the Immigration Act 2014, in certain circumstances, to protect those considered to be vulnerable.

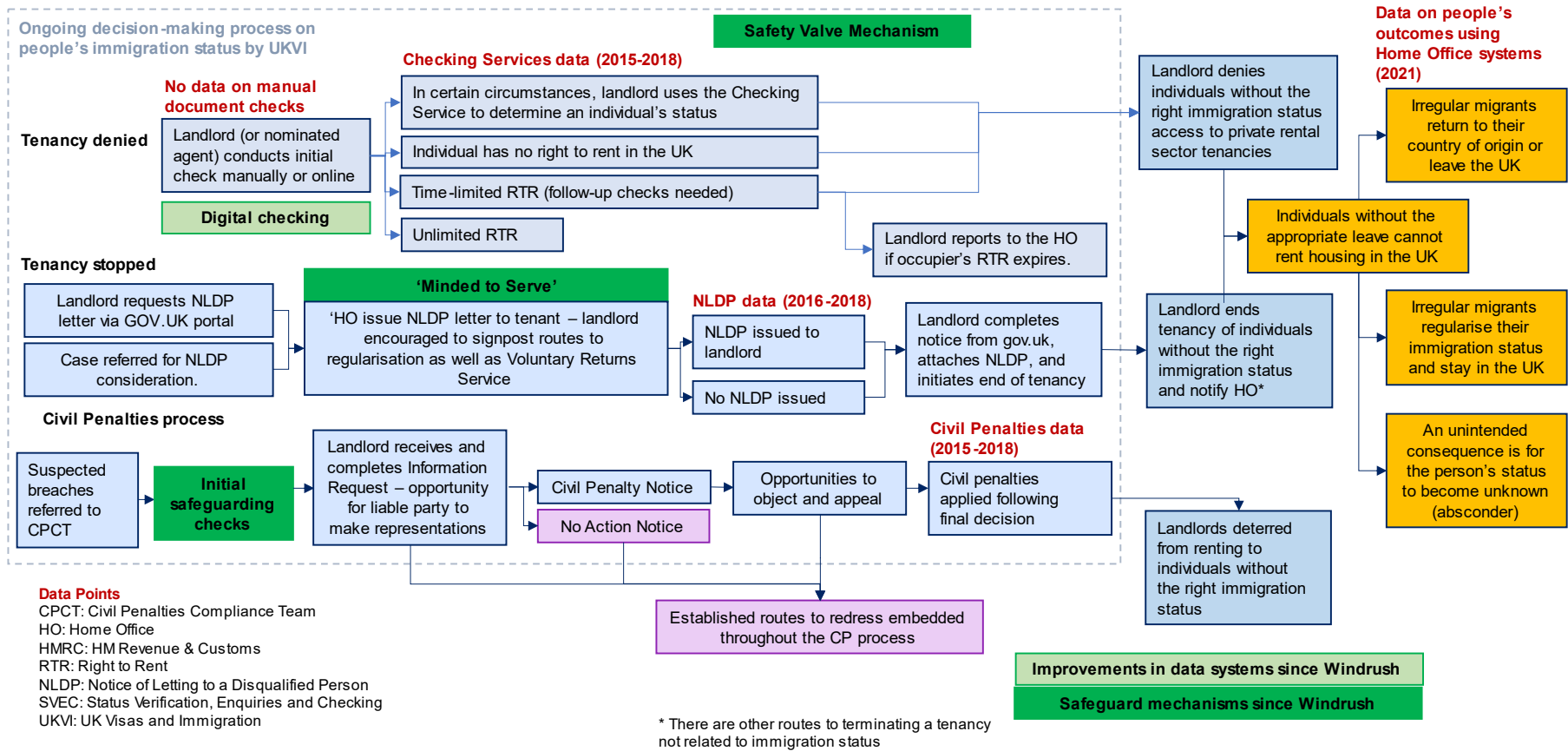
The 2016 Act also sets out how landlords should end a tenancy due to a tenant's immigration status. The Home Office writes to the landlord to notify that a person in the property does not have the right to rent, known as a 'notice of letting to a disqualified person' (NLDP). The Home Office sent the first NLDP letter in Q4 2016.

Although the measure is wide reaching, it mainly relies on landlords and letting agents to enforce checks. The Home Office's own activities in this area have been more limited with civil penalties related to 548 tenants issued between 2015 and 2018.

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<sup>25</sup> Eligible users are (i) those with a valid biometric residence permit (BRP) or card (BRC); (ii) those with settled or pre-settled status, or who have made a valid application and have been issued with a digital Certificate of Application, under the EU Settlement Scheme (EUSS); or (iii) those with an online immigration status (an eVisa) under the points-based immigration system.

Figure 2: Overview of the Right to Rent Scheme



## Contextual overview

Based on [analysis of 2011 census data](#), those born outside the UK were more likely to rent privately (38%) than those born in the UK (15%). The less time someone spent in the UK, the more likely they were to be renting privately; 18% of migrants living in the UK for under five years owned their own home and 73% rented privately. In contrast, 78% of migrants who have lived in the UK for over 30 years owned their own home and 8% rented privately. The 2020-2021 English Housing Survey found that 25 to 34-year olds were the most common age group to rent privately, making up 32% of households to do so.<sup>26</sup> Private renting was found to be more common in London than the rest of England, on average, 27% of households rented in London compared to 17% in the rest of England.<sup>27</sup>

The Home Office has undertaken two evaluations in this area in response to concerns raised by stakeholder groups around the risk of discrimination. The first was to assess the initial phase of the scheme.<sup>28</sup> This report looked at the implementation, and awareness of the scheme as well as whether it would lead to any potential discrimination. The Home Office's [most recent evaluation](#) used surveys with landlords and mystery shopping to explore whether ethnicity or nationality is a factor in decision-making. The evaluation did not find a significant correlation between discrimination and the checks, although there were some reported instances of discrimination. The evaluation found that landlords or letting agents are more likely to make decisions based on income, with those on benefits or young people more likely to be affected. The Home Office also has plans for a call for evidence in this area.

## Summary of analysis of the measure

### Civil Penalties

From 3 February 2015 to 29 March 2018, there were 417 civil penalty notices issued regarding 548 tenants without the right to rent.

The total debt related to these cases was £272,000, or £652.28 per case. In terms of demographics:

- The largest group of individuals were aged between 30 and 39 years old (43%, 233), followed by 38% (208) of individuals aged between 18 and 29.
- Only 5% (27) of tenants were 50 years old or over.
- Indian nationals were the nationality most frequently associated with civil penalties (39%, 214), followed by Pakistani nationals (17%, 93) and Albanian nationals (9%, 49).

## Evidence gaps and insights

As with the Right to Work Scheme, the Right to Rent Scheme includes a variety of enforcement activities and checks by third parties (landlords and letting agents). To date, the Home Office has conducted two evaluations into the Scheme to explore some concerns raised around unintended consequences, as again the Home Office does not hold all data related to refusals by landlords or letting agents. Future plans will explore how the Home Office can incorporate learnings from previous reviews – how it can best assess the landlord checking processes

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<sup>26</sup> [English Housing Survey 2020 to 2021: headline report - GOV.UK \(www.gov.uk\)](#) Section 1, households annex tables, Annex Table 1.3: Demographic and Economic Characteristics, 2020-21.

<sup>27</sup> [English Housing Survey: headline report 2020-21 \(publishing.service.gov.uk\)](#) Page 3.

<sup>28</sup> [Evaluation of the Right to Rent scheme - GOV.UK](#)

going forward; and what other data it can use, such as OGD surveys. Again, the role of digital checks is likely to be important to explore.

## Access to public funds

This measure aims to ensure that only migrants with the right to claim benefits can do so. As such, the measure primarily applies to those with limited leave to remain and those without lawful status.

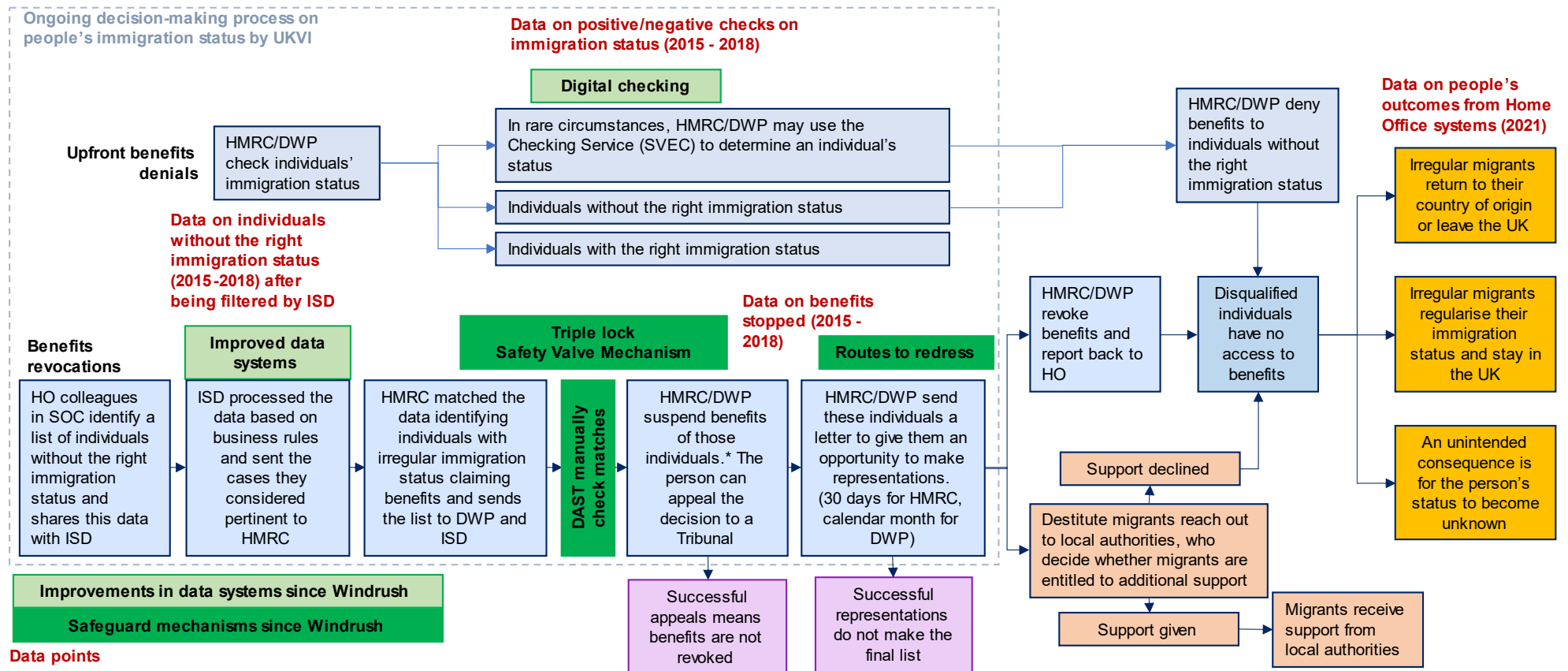
In terms of the rules around benefits overall, only those who are habitually resident in the UK can access non-contributory benefits and social housing. This includes migrants with indefinite leave to remain, refugees, protected persons and those granted discretionary leave.

A temporary immigration status generally comes with a No Recourse to Public Funds (NRPF) condition, which implies the applicant accepts that, as part of the conditions to enter the UK, they cannot access benefits that are classed as public funds (as set out in section 115 of the Immigration and Asylum Act 1999 and [paragraph 6 of the Immigration Rules](#)). It is expected that those who come to the UK can support themselves; the applicants must provide evidence of this under most immigration routes. Note, however, that contributory or statutory benefits, such as state pensions, are accessible to all who are eligible, regardless of immigration status.

### How the measure is implemented

The Home Office takes a proactive role in this area by ensuring that those whose rights have expired do not continue to claim benefits. It does this by sharing data with HMRC and, by extension, with DWP, as seen in Figure 3.

Figure 3: Overview of the public funds measure



**Data points**

- DAST: Data and Sanctions Team
- DWP: Department for Work and Pensions
- HMRC: HM Revenue. & Customs
- ISD: Interventions and Sanctions Directorate
- NRPF: No recourse to public funds
- SOC: Strategic Operations Command (now Strategic Services & Transformation)
- UKVI: UK Visas and Immigration

\* Except tax benefit, which is not suspended immediately.

## Contextual overview

According to [DWP statistics](#), as of May 2021, 2.8 million people received housing benefit; of those, 76% lived in social housing and the remainder rented privately. [HMRC statistics](#), as of August 2020, show that 7.2 million families received child benefit. In the financial year 2019 to 2020, [HMRC statistics](#) showed there were 2.5 million families claiming Child Tax Credit and/or Working Tax Credit. Based on the [Family Resources Survey](#), 51% of families in the UK receive some sort of state support, with this being most common in White British families (54%) and least common in Chinese families (25%).

Based on a [2016 briefing paper](#), 7.2% of those receiving DWP benefits were non-UK nationals when they registered for a National Insurance number (NINO), and 12.5% of people claiming Child Benefit were non-UK nationals. However, there are caveats to these data – DWP and HMRC rarely record benefits claimants' nationalities, which are only recorded when someone initially registers for a NINO. As some migrants will have naturalised since, these data are not a fully accurate representation of the proportion of migrant benefit claimants.

According to the [Migration Observatory's 2015 analysis of the Labour Force Survey](#) those born outside the UK were less likely to claim DWP out-of-work benefits than those born in the UK. Of families receiving tax credits, 15.9% contained at least one member who was a non-UK national when registering for a National Insurance number. The same analysis found that those born outside the UK were more likely to receive tax credits than those born in the UK (15% vs 11%).

## Summary of analysis of the measure

### Data sharing: benefit revocation

Where a migrant's legal status has lapsed, the Home Office shares data with the government departments who administer the benefits, i.e. DWP or HMRC, for them to consider whether to stop benefits being paid.

Between December 2014 and January 2018, there were 4,028 revocations of HMRC or DWP administered benefits and credits related to immigration status. This referred to 3,851 individuals, meaning 177 revocations related to a person who had already had benefits stopped once. Of the 4,028 revocations, 3,632 related to HMRC administered benefits and credits, compared to 396 DWP administered benefits. In terms of demographics:

- 76% of individuals were female (2,912), compared to 24% (934) male.<sup>29</sup>
- Persons aged 30 to 39 were most commonly subject to revocations (50%, 1,927), followed by 27% (1,031) aged between 40 and 49.
- Only 8% (301) were 50 years old or over.
- Nigerian nationals were the most common nationality (19%, 749), followed by Ghanaian nationals (13%, 483) and Jamaican nationals (11%, 411).

Looking at outcomes in May 2021, for the cohort subject to benefit revocations:

- 68% (2,626) of the individuals had regularised their immigration status, of which 34% of this group of individuals had done so permanently.
- 9% (329) were identified as cases under review.
- 13% (512) were of interest to IE.

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<sup>29</sup> Five people had no recorded gender.



- 7% (267) had likely left the UK, based on the information available to the department.

In terms of those recorded as returns to another country (whether voluntary or enforced), less than 3% (100) of individuals had returned, of which 68% (68) were voluntary; as at 23 May 2021, 78% (78) remained outside the UK.

Regardless of immigration status, migrants can seek support from local authorities who may assist instead if they fulfil certain criteria. Local authorities may provide basic safety net support, regardless of immigration status, if they establish there is a genuine care need that does not arise solely from destitution, such as where there are community care needs, migrants with serious health problems, or family cases where the wellbeing of a child is in question.

## No Recourse to Public Funds

[NRPF](#) is the standard condition which applies to most people granted a visa or temporary leave to remain in the UK, in order to protect public funds. As part of this, migrants and visitors are expected to support themselves financially, and therefore have no access to most mainstream non-contributory benefits. Migrants who are in the UK without leave are also subject to NRPF. Therefore, most migrants do not have access to public funds by default.

While NRPF is a condition of most temporary routes, the evaluation of the compliant environment aims to explore certain aspects of NRPF, in particular, two areas: data related to requests to lift NRPF; and data on migrants applying for assistance from local authorities.

NRPF Connect is a database for councils to record details of those with NRPF being supported by local authorities. During financial year 2020 to 2021, 68 local authorities recorded information on this system. This showed that 3,200 households had applied for support, of which 1,636 were families and 708 were adults with care needs. Around three in ten of the applicants in each group had an irregular immigration status<sup>30</sup>.

Migrants with leave under the Family and Human Rights routes and those granted leave on the Hong Kong British National (Overseas) route can apply to have the NRPF restriction lifted by making a 'change of conditions' application if there has been a change in their financial circumstances.

To understand this area better, this report has looked at published NRPF change of conditions data during the period pre-Windrush and post-Windrush. This is because published Home Office data on NRPF starts at Q3 in 2017. Looking at Q3 and Q4 in 2017, the Home Office received 1,105 applications to lift NRPF, while in the full year of 2018, it received 3,192. Between Q3 2017 and Q4 2018, approximately half of requests were granted. Those applying were predominately women (70%), and a third of applications were made by Nigerian nationals with other common nationalities including Ghanaian and Jamaican.<sup>31</sup>

The number of applications has varied slightly over time, with [indications that the pandemic impacted applications](#) as they increased significantly in early 2020 to a peak of 5,748 applications in Q2 2020. The number has since declined with 893 applications in [Q3 2021](#).

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<sup>30</sup> [NRPF Connect data report 2020-21](#)

<sup>31</sup> [Immigration and protection data: Q1 2021](#). This dataset includes the number of Change of Condition applications made each quarter between Q3 2017 and Q1 2021.



The broad demographics, with women being more likely to apply than men, remained consistent throughout 2020 and 2021. Nigerians remained the most common nationality to apply for the NRPF condition to be lifted between 2020 and 2021, with other common nationalities including Pakistani and Indian. Ghanaians, previously the second most common nationality to apply for the NRPF condition to be lifted, were the fifth most common to do so in this period.

### Evidence gaps and insights

DWP manages most of the benefits, but HMRC revocations are higher. While numbers are smaller than for some other sanctions, the impact for those sanctioned may be high. Women tend to be proportionally more affected by this measure than the other measures, while the most common nationalities affected are all African or Caribbean.

A very high proportion of those included in the data share have regularised their situation on at least a temporary basis since having their benefits stopped, although this may not mean that they regained the right to claim benefits. Existing data will enable continuous monitoring to better understand the characteristics of those subject to this measure, but additional data are needed to understand the relationship between legal status and rights to claim benefits in the cases of those who have their benefits revoked. A better understanding of whether the measure leads to cost displacement to, for example, local authorities may be useful.

### Access to banking

These measures are aimed at ensuring that those without the legal right to reside in the UK cannot open or hold a bank account. Delivery of the 2014 and 2016 Immigration Act banking measures requires banks and building societies, which provide current accounts, to check applications for new and existing accounts against a 'disqualified persons list' provided by the Home Office. Banks are required to reject applications to open new accounts and to close existing accounts for those deemed to have no lawful status in the UK.

Key elements of the Immigration Act 2016 were only in place during a limited time, hence less information about this measure is available.

### How the measure is implemented

Under the Immigration Act 2014, banks and building societies are prohibited from opening new current accounts for "*disqualified persons*" – a person without lawful immigration status in the UK who the Home Office considers should not be permitted access to a bank or building society account, typically because they have reached the end of the immigration process and are liable to removal.

The 2016 Act goes further and places a duty on banks and building societies to close existing accounts held by disqualified persons (which might have been opened before the 2014 prohibition came into place or by a person who has subsequently become unlawful).

Both sets of measures operate because of the Home Office proactively sharing data on disqualified persons with a specified anti-fraud organisation. Banks are required to check applications for new accounts against the disqualified persons list prior to opening an account, and undertake quarterly checks against the list for existing account holders. They must notify

the Home Office of any matches against existing account holders and await instructions on action to be taken against the account. The number of individuals on the disqualified persons list varies.

The technical specification used to extract data from Home Office systems to form the disqualified persons list underwent several amendments post-Windrush to ensure no Windrush-generation individuals would be affected by this data sharing arrangement. This included excluding individuals from the Caribbean Commonwealth countries born before 1/1/73.

Following safeguards implemented post-Windrush, the Home Office restricted the disqualified persons list to only foreign national offenders born on or after 01/01/1989, who were subject to deportation. Changes to how the list was managed went beyond Windrush and related to maintaining the integrity of the data.

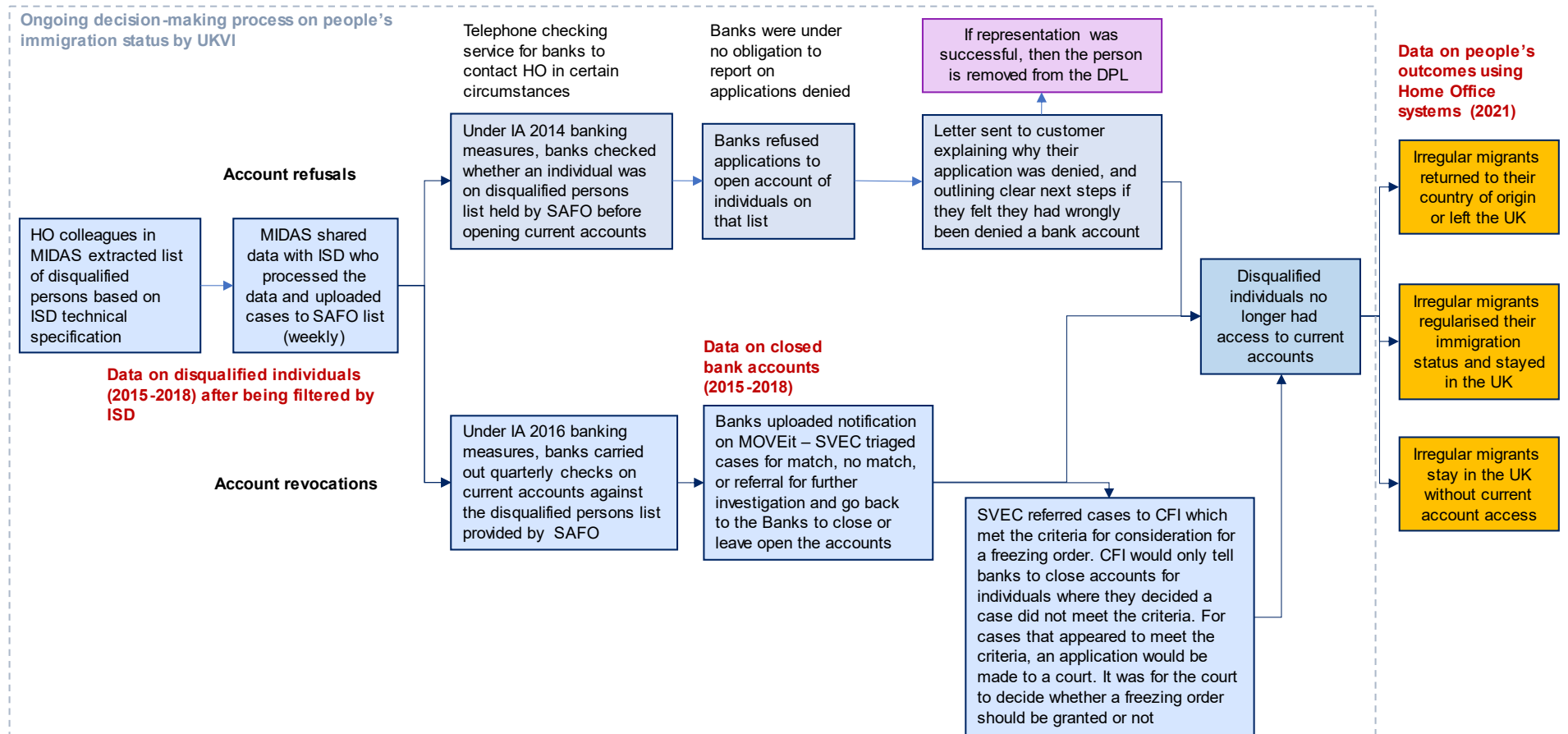
The Home Office shared data from the list weekly with the specified anti-fraud organisation. Numbers fluctuated each week but it listed fewer than 20 individuals in 2019. Data sharing stopped in 2020 for a variety of reasons unrelated to Windrush, such as COVID-19, and has not recommenced. Hence Figure 4 only looks at pre-Windrush data sharing processes.

Figure 4: Overview of banking measure pre-Windrush

**Data points**

CFI: Criminal Financial Investigations team  
 DPL: disqualified persons list  
 HO: Home Office  
 ISD: Interventions and Sanctions Directorate  
 IA: Immigration Act

MIDAS: Managing Integrated Data Application Solutions  
 MOVEit: Managed file transfer software  
 SAFO: Specified anti-fraud organisation  
 SVEC: Status Verification, Enquiries and Checking Team  
 UKVI: UK Visas and Immigration



## Contextual overview

In the UK, [according to the Financial Conduct Authority \(FCA\)](#), the 'big six' banks – Barclays, HSBC Group, Lloyds Banking Group, Nationwide Building Society, NatWest Group and Santander UK – dominate the retail and commercial banking markets, with a market share of 87% of personal current accounts in 2017. However, the [FCA's 2022 Strategic Review](#) found digital banking increased in popularity between 2018 and 2021, with 8% of personal current accounts in 2021 constituting digital challengers.

The [FCA's 2020 Financial Lives Survey](#) estimated that 2.3% of the adult UK population (1.2 million people) possessed neither a current account, nor an e-money account. Of those without one, 9% had tried to open a bank account in the past and been refused, with the most common reasons given that they were not creditworthy or could not prove their identity. While there was no substantial difference in the proportion of men and women without a bank account (2.2% vs 2.3%), the survey found this varied by age; 18 to 24-year-olds were most likely to be unbanked (4.9%) and 65 to 74-year-olds were least likely to be unbanked (0.9%).

## Summary of analysis of the measure

The number of individuals on the disqualified persons list varied significantly during the period pre-Windrush. These fluctuations were due to changes in decision criteria for inclusion and exclusion of irregular migrants (how long ago it had been since an address was updated, for example).

[An inspection of the Home Office's use of sanctions and penalties](#) reported there were 59,706 names on the disqualified persons list in January 2016, which increased to 199,749 in January 2017 but decreased to 90,947 by January 2018.

Banks were also required to close existing current accounts of those deemed not to have the right to reside in the UK. This measure was only in operation for a short period prior to Windrush. The data relating to current account closures total less than 30 people until 29 January 2019, making it impossible to draw any meaningful conclusions on banking measures because the sample size is too small.

## Evidence gaps and insights

The impact of data sharing cannot be fully assessed for this measure given that the closure of accounts only happened for a very limited time. In terms of denials relating to the opening of an account, banks do not need to report back to the Home Office. This presents an evidence gap in assessing outcomes that will be important to understand going forward. This measure has not yet restarted, but any additional research will depend on future developments in this area. The changes in personal banking, and the increase in digital options and informal banking, may be further areas to explore.

## Driving

The Immigration Act 2014 reinforced the power of DVLA (and DVA in Northern Ireland) to deny new UK driving licences to irregular migrants, and introduced the power to revoke UK driving licenses held by irregular migrants. It is an offence to retain a driving licence which has been revoked. The Immigration Act 2016 built on these measures by allowing police and immigration officers to search for and seize driving licences where there are reasonable grounds to believe they belong to irregular migrants. Additionally, it officially made driving as an irregular migrant a criminal offence, giving officers the power to seize vehicles being used by irregular migrants. However, the 2016 measures are yet to be officially implemented.

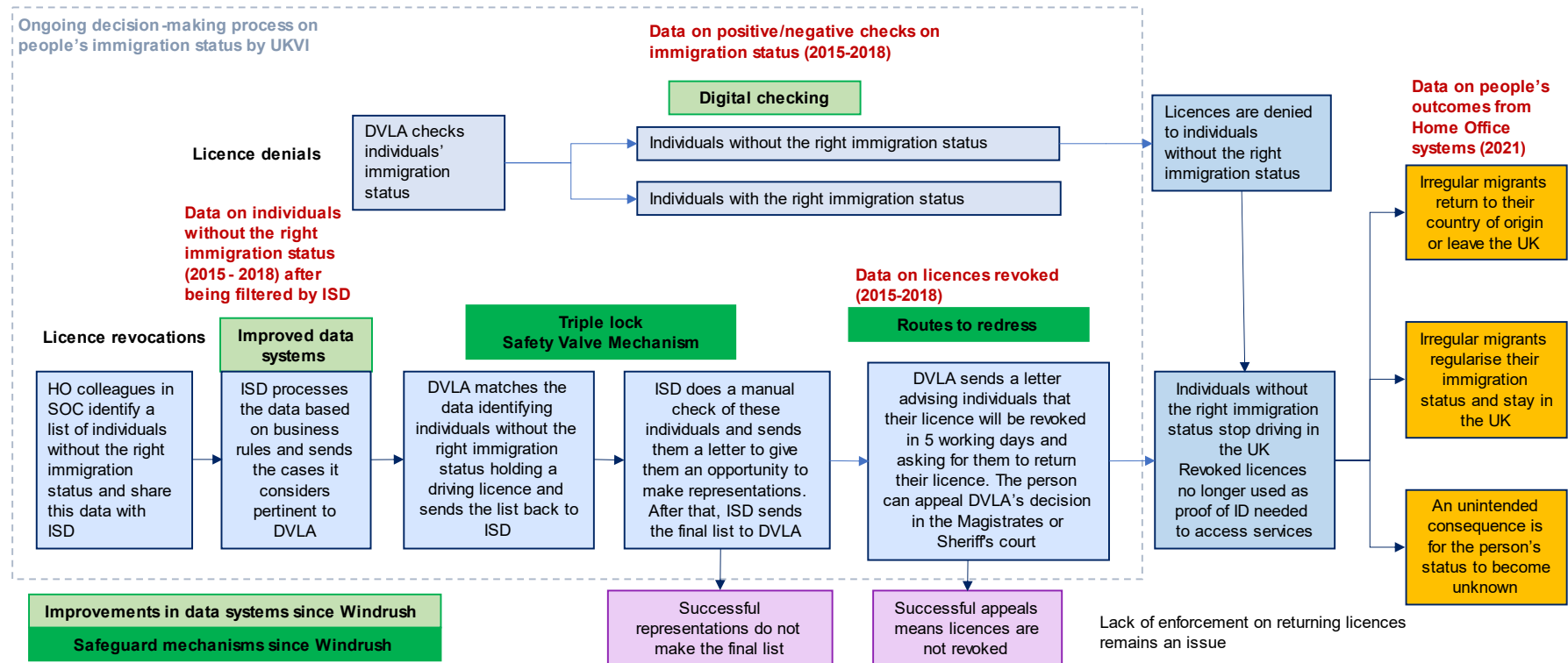
It is possible to drive in the UK with most foreign licences for 12 months depending on the country of issue. Following this period, and depending on the country of issue, for a UK driving licence to be issued a foreign licence generally needs to be exchanged or the driving test re-taken.

This section only focuses on the revocation of driving licences and not the denial of services, which is not reported in its entirety to the Home Office.

### How the measure is implemented

The Home Office shared data monthly, and its data was matched against that held by DVLA (and DVA). Letters were sent out to the individuals identified as holding a driving licence but lacking a regular immigration status, alerting them that their UK driving licence would be revoked. See Figure 5 for more detail.

Figure 5: Overview of driving measure



**Data points**

DVLA: Driver and Vehicle Licensing Agency  
 HO: Home Office  
 ISD: Interventions and Sanctions Directorate  
 SOC: Strategic Operations Command  
 UKVI: UK Visas and Immigration

## Contextual overview

The Department for Transport's [2020 National Travel Survey](#) found that 80% of the adult population in the UK had a driving licence. In terms of age, 40 to 59-year-olds were the most likely age group to hold a driving licence (86%), while men were more likely to hold one compared to women (83% vs 77%).

Driving licence ownership varies by ethnic group. Based on [National Travel Survey data](#) from between 2015 and 2019, those defining themselves as White were most likely to have a licence (76%), while those defining their ethnicity as Black were least likely (53%). The other three ethnic groups included in the survey had very similar proportions of licences to each other (Mixed, 60%; Other, 60%; Asian, 61%).<sup>32</sup>

## Summary of analysis of the measure

### Data sharing: revocation of licences

An independent report into [Home Office use of sanctions and penalties](#) found data sharing from the Home Office to the DVLA resulted in 35,583 sanctions between July 2014 and February 2018, involving 35,556 individuals. The sanction involved contacting those deemed as irregular, informing them that their driving licences had been revoked and instructing to return the licences to DVLA. The report found only a small number of revoked licences were returned so, in theory, licences can still be used as ID documents.

The demographics of those with sanctions (revoked licences) were:

- 83% (29,564) men and 17% (5,946) women<sup>33</sup>
- generally relatively young, with 44% (15,574) between 30 and 39 years old, and 39% (13,946) between 18 and 29 years old, while only 4% (1,430) were 50 years old or over
- Pakistani nationals were the most common nationality (28%, 9,988), followed by Indian nationals (22%, 7,700) and Bangladeshi nationals (11%, 3,856); generally these nationalities would have been required to re-take their driving licence to obtain a UK one.

Looking at outcomes in May 2021, for the cohort who were the subject of driving licence revocations:

- 21% (7,371) had now regularised their immigration status, of which 10% of this group of individuals had done so permanently
- 5% (1,785) were identified as cases under review
- 32% (11,206) were of interest to IE
- 41% (14,702) had likely left the UK, based on the information available to the department

Looking at individuals that are classified as formal returns (voluntary or enforced), 11% (4,023) returned their licence following the revocation, and most returns were voluntary (70%, 2,814). Overall, of those who returned their licence, 85% (3,409) were still outside of the UK as at 23 May 2021.

## Evidence gaps and insights

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<sup>32</sup> Ethnic groups are aggregated in this survey because the number of people surveyed was too small to draw any conclusions about more specific ethnic groups.

<sup>33</sup> Forty-six people had no recorded gender.

This measure had the highest number of sanctions in terms of revocations. Men tended to be impacted more than women by this measure. Many nationalities need to sit tests to acquire a UK driving licence, hence considerable effort and cost are involved in acquiring a UK licence. While the data can continue to give information about who the measures affected, they do not give information about the motivations and reasons for applying for a licence, the impact of losing it, and the use of driving licences as ID documentation. The evaluation will explore further the importance of a UK licence, and therefore the impact of losing it, including what actions those subject to the sanction take in terms of regularising or leaving the UK.

## Access to healthcare

The NHS is a residency-based healthcare system, so only people who are ‘ordinarily resident’ in the UK, or otherwise exempt from charges under the relevant devolved administration’s NHS (Charges to Overseas Visitors) Regulations (the Charging Regulations), are eligible for free care. Being ordinarily resident broadly means living in the UK on a lawful and properly settled basis for the time being, with individuals subject to immigration control also requiring ‘indefinite leave to remain’ in the UK.

Primary care,<sup>34</sup> accident and emergency (A&E) treatment, treatment of communicable diseases, sexual health treatment and some family planning services are [free of charge in the UK](#).<sup>35</sup> The remainder of NHS care is chargeable, even if given in non-NHS settings.

### Healthcare for non-ordinary residents, including migrants without indefinite leave to remain

All temporary migrants [coming to the UK for longer than 6 months](#) <sup>36</sup> pay the [Immigration Health Surcharge](#) at the point of visa application as a one-off payment, even if they have private healthcare insurance. This allows them to access NHS services without further charge, although there are some exceptions, including assisted conception services and charges a permanent resident would pay, such as prescription charges in England. The Immigration Health Surcharge [does not apply](#) to those applying to stay in the UK indefinitely or those with visitor visas. Since 2015, people who are not ordinarily resident in England and have not paid the Immigration Health Surcharge – usually irregular migrants, expatriates or visitors – have been charged 150% of any secondary healthcare treatment costs they incur, subject to certain exceptions. In the other devolved administrations, the charge is 100%.

### How the measure is implemented: the compliant environment and healthcare

The Overseas Visitor Manager (OVM) for each NHS Trust identifies and invoices chargeable patients, but other members of staff should communicate with them and flag potentially chargeable procedures. A potential patient’s residence status is assessed when they present at a secondary treatment provider or in advance. This assessment is carried out through interviews, asking for documentation, and checking NHS Digital records for any evidence of chargeable status or exemption from charging. In exceptional circumstances, OVMS contact

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<sup>34</sup> General practice services, as well as community dentistry, pharmacy and ophthalmology.

<sup>35</sup> In England, the 111 service, charity and community palliative care and treatments for the effects of torture, female genital mutilation, and domestic and sexual violence are also exempt from charging.

<sup>36</sup> Except for those with a Health and Care Worker visa.



the Home Office's checking systems – while these cannot confirm someone's entitlement to free healthcare, they can verify that person's immigration status.

Care that is immediately necessary or considered urgent by clinicians<sup>37</sup> will always be provided without delay, regardless of the patient's ability to pay. This does not mean that the treatment is necessarily provided free of charge; if charges are not recovered pre-treatment, they should be pursued after the treatment is provided. In England, if treatment is not urgent, the patient will need to pay upfront and should not be treated until payment has been received.<sup>38</sup>

Where debts are for £500 or more and have been outstanding for over two months with no repayment plan, they are reported to ISD in the Home Office via the relevant NHS body.<sup>39</sup> Before April 2016, this applied to debts of more than £1000 that had been outstanding for longer than three months with no repayment plan. Since 2011, people with NHS debts who have been reported to ISD can be refused new grants of leave to enter or remain in the UK. However, this is not a mandatory ground for refusal.

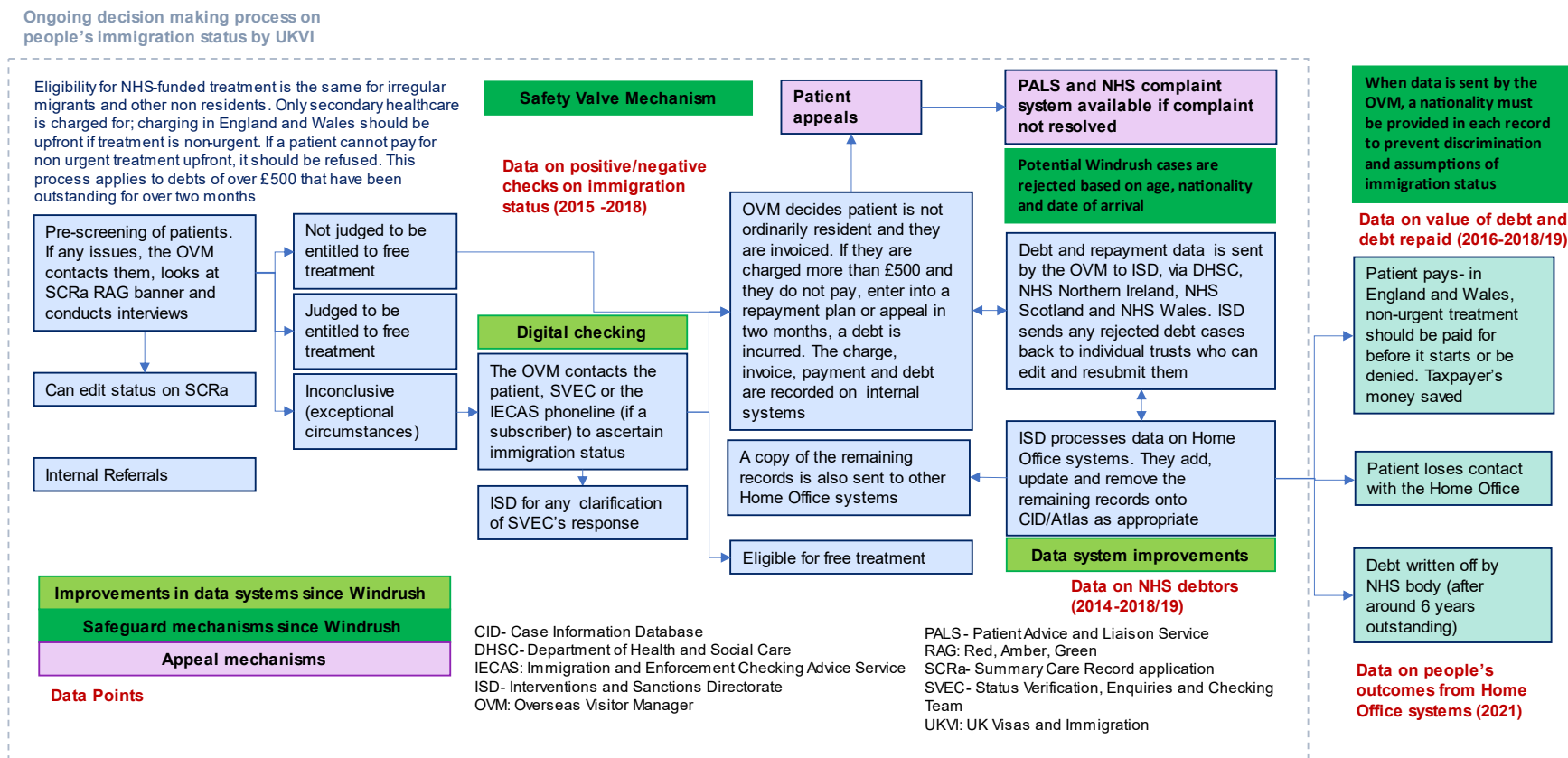
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<sup>37</sup> Urgent treatment is defined as treatment that cannot wait until someone returns home – for irregular migrants this timeframe is decided on a case-by-case basis but is six months in complex cases.

<sup>38</sup> Upfront charging for secondary non-urgent treatment is a statutory requirement in England and encouraged in Wales. It does not take place in the other devolved administrations.

<sup>39</sup> This is DHSC in England, and NHS Scotland, Wales and Northern Ireland in the other devolved administrations.

Figure 6: Overview of Health measure: this process applies to all treatment except primary care,<sup>40</sup> A&E treatment, treatment of communicable diseases, sexual health treatment and some family planning services<sup>41,42</sup>



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<sup>40</sup> General practice services, as well as community dentistry, pharmacy, and ophthalmology.

<sup>41</sup> [Guidance on implementing the overseas visitors charging regulations \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

<sup>42</sup> In England, the 111 service, charity and community palliative care, and treatments for the effects of torture, female genital mutilation, and domestic and sexual violence are also exempt from charging.

## Contextual overview

[According to NHS Digital](#), in 2019, there were 17.4 million completed inpatient admissions in England (including 6.6 million emergency admissions), and 96.6 million attended outpatient appointments. Based on [NHS Digital's analysis](#) of the A&E Attendances and Emergency Admissions Monthly Situation Reports, 24.8 million A&E appointments took place in England between 2018 and 2019. NHS Digital estimated that 312 million [GP appointments](#) occurred in England in 2019. There were 61,194,033 people [registered at an English GP practice](#), as of October 2021.<sup>43</sup>

## Summary of analysis of the measure

This report has looked at data on debtors, i.e., non-ordinary residents who have received treatment from the NHS for which they need to pay but have yet not done so. Data sharing between the Home Office and NHS Trusts resulted in 13,370 debtor cases regarding 12,112 unique persons recorded on Home Office systems between 14 July 2014 and 28 February 2018.

- Debtor cases related to persons that were 63% female (7,622) compared to 36% (4,375) male.<sup>44</sup>
- People aged 30 to 39 were most likely to have outstanding debt (27%, 3,310), followed by 25% (3,080) aged 60 years old or over, and another 25% (3,071) aged between 18 and 29.
- Indian nationals were the most common nationality (14%, 1,737), followed by Nigerian nationals (13%, 1,607) and USA nationals (10%, 1,182).

Due to the lack of data in this area, and difficulties matching the available data, analysis of outcomes and voluntary returns has not been included. It has not been possible either to look at debt by type of treatment within this report.

Note that the data refers to debtors overall, and while some of the debtor cases will be individuals irregularly in the UK, not all are.

## Data sharing practices

Data sharing between the Home Office and NHS Digital to trace irregular migrants previously known to the Home Office [has been recorded](#) as taking place from 2008 and was formalised by a Memorandum of Understanding (MoU) between the Home Office, NHS Digital and DHSC in January 2017. During 2017 (its only full year of operation), NHS Digital received 6,393 requests for up-to-date information for absconder tracing. In a relatively small number of cases, the enquiry provided an address of which the Home Office was not previously aware. However, the precise impact of these exchanges was difficult to measure. This was because separate statistics on the outcome of a particular line of enquiry were not kept and it was not possible to draw a direct correlation between the new address and the subsequent IE or UK Visas and Immigration activity. The MoU was suspended in May 2018 and [withdrawn](#) in November 2018. While there was a temporary agreement after this, focusing only on safeguarding vulnerable migrants, no irregular migrants were traced through this system. There are no current plans for a new data sharing agreement.

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<sup>43</sup> Hospital data from before January 2020 has been used to mitigate the impact of the Coronavirus pandemic on hospital admissions.

<sup>44</sup> One hundred and fifteen people did not have a gender recorded.

However, as outlined in **Error! Reference source not found.**, sharing of non-clinical data between the Home Office and the NHS still takes place to verify the immigration status of potentially chargeable patients where all other routes have been exhausted. Additionally, bodies giving NHS treatment share debt and repayment data with the Home Office so it can consider this when deciding on applications for leave to enter or remain.

### Evidence gaps and insights

The dual function of the overseas charging system makes this measure particularly complex to evaluate. In terms of demographics, more women than men appear to be affected by this measure. While it is possible to identify NHS debtor records in home Office databases, it is difficult to assess whether this record belongs to a visitor or an irregular migrant, because there is no simple method of identifying a person's status when they received the chargeable treatment.

One area for further research is how the policy is executed and understood by different healthcare providers and practitioners. Another important research area in this strand is whether migrants' understanding of the policy (and previous data sharing agreement) impacts individual and public health.

### Summary of characteristics of those whose data was shared

The information around individual measures varies. For driving licence revocations, benefits revocations, employer nudge letters and NHS debtors there is additional information available about those directly subject to one of the measures. This is also the case when bank accounts were closed, but due to the low numbers involved, no detailed analysis has been undertaken.

Looking at the demographics of those who were directly affected by these measures, there are some notable trends in demographics, by:

- Age: Overall, 30 to 39-year-olds were the most prominently affected age group across the measures.
- Nationality: Some of the most affected nationalities across measures included Indian, Pakistani, Nigerian, and Bangladeshi. Variability was still relatively high as the three most common nationalities made up 40% of the total in the measures where demographic data was available, apart from driving where 60% of licence revocations concerned nationals from the Indian subcontinent. Over 150 nationalities were represented in the data share overall.

In general, the most common nationalities in the data share were similar to the most common nationalities subject to the measures. However, while Chinese nationals were among the most common nationalities found in the data share, they were not commonly subject to the measures where demographic data was available. Although Ghanaians and Jamaicans are not among the five most common nationalities in the OGD data shared, they were two of the most affected nationalities by benefit revocations. Americans had the most NHS debt and Albanians were most often linked to Right to Rent civil penalties, despite neither nationality being one of the five most common in the OGD data shared.

- Sex: Most of those subject to the driving measure were men (83%), while 64% of those who were the subject of nudge letters were also men. Those who had their benefits revoked and were NHS debtors tended to be women. Note from **Error! Reference**

**source not found.** that women only made up a third of the total pool of individuals deemed to be irregular migrants and whose data was shared with OGDs.

Considering longer-term outcomes for those subject to the measures directly, the analysis has attempted to look at what actions these people took post sanction or nudge letter. Looking at outcomes in May 2021, at least 60% of those who had seen their benefits being revoked or whose employer had received a nudge letter had regularised their status (either on a temporary or longer-term basis), while about 40% of those with driving licence revocations had left the UK.

It is important to note that immigration status can change over time. This could result from appeals, new applications, or legal status expiring. Similarly, someone who has left the UK may subsequently return to the UK, for example, via a different legal route.

### **Implications for the evaluation**

This section demonstrates the differences in the measures in terms of who they impact and how they are enforced. The evaluation will look to address these differences by undertaking detailed separate evaluations where appropriate. The demographics highlight some notable differences in terms of who are subject to the measures, so it will be especially important to continue to monitor impacts by sex, but also nationality. Although the number of those who have been subject to more than one measure is small, it is also something that should be monitored going forward.

The outcome data clearly shows how immigration status can vary over time. While we cannot assess cause and effect, the exploratory work has helped understand choices available to irregular migrants, and different routes into irregularity. This shows that tracking individuals' outcomes over time will be crucial to understand impacts. The ongoing monitoring will explore the varying trends in immigration status in more detail. Another area to explore is timelines between interventions and action taken by irregular migrants to regularise their situation or leave the UK, for example. The evaluation will investigate this in more detail going forward.

## 6. OGD Partners: cross-cutting findings on data sharing

Home Office researchers conducted a series of semi-structured telephone interviews with OGDs and partner agencies in 2020 to better understand the details of the data sharing the Home Office undertakes with OGDs. In particular, the interviews focused on:

- experience of cross-government working to deliver the compliant environment
- how, if at all, practice and processes might be improved.

The researchers interviewed 18 participants in both operational and policy roles relevant to the compliant environment, across HMRC, DWP, DVLA and NHS Trusts.

The interviews were exploratory and captured the views and experiences of the participants. The findings and comments do not relate to a specific period but instead reflect the overall experience, pre- and post-Windrush, of those interviewed. They are intended to inform further data collection and should not be interpreted as comprehensive or representative views of partner organisations.

We have aggregated the findings below from across the 18 interviews, anonymising them so they do not identify departments or individuals. Note that some of the topics in this summary does not relate to NHS Trusts who are not involved in bulk data sharing or sanctions.

### Customer engagement

#### Communication strategies

Partners felt clear communication strategies about Home Office policies that consider the role that OGDs may play in disseminating information was important. Some partners suggested the Home Office could do more to communicate policy changes to people subject to sanctions, for example, by explaining the rationale for new processes or administrative requirements. This could better support effective conversations with OGD customers who raise questions about why new information might be requested from them that had not previously been required. Some also felt it would be helpful to communicate responsibilities for each government department to the wider public to help avoid misunderstandings and help manage expectations.

Partner organisations identified challenges when taking responsibility for informing customers about sanctions applied because of compliant environment policies that were devised by the Home Office. This meant partner organisations could be fielding complaints from sanctioned individuals which the partners felt the Home Office could better deal with.

#### Decision-making and appeals

Immigration status and sanction decisions, as well as appeals, are a key part of implementing the compliant environment. Participants noted the importance of ensuring that all organisations involved get decisions right the first time.

Many partners cited a range of issues resulting from the timing and sequencing of immigration status decisions. This was exemplified with the access to benefits measure where there could be an outlay of funds before confirming or denying entitlement, while in other cases, individuals with insufficient documentation may be 'in limbo' for a long time and be unable to file any new claims, despite being eligible. Some partners felt that the time required to resolve cases could have a negative impact on the customer, particularly where they are reliant on benefits arriving

in a timely manner. Where claims have a time limit, customers can miss out when cases take longer to resolve.

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## Legacy documentation

While some partners felt optimistic that digitised processes will improve eligibility assessment, others did not consider digitalisation would address all their concerns. Some partners noted that those individuals in the pre-1973 settled population, who only had paper-based legacy documentation, could have difficulty with a digitised system. For the settled population without up-to-date documentation, rigid documentation processes could cause issues, and, in these cases, standard processes may not apply. Some felt that upskilling large numbers of caseworkers to deal with these instances could be challenging.

## Working across departments

### Policy development and change management

Partners clearly described the overall aims of the compliant environment policies as mechanisms within their work area designed to protect taxpayer money and ensure that only those entitled to access public services may do so. Most partners felt that the current operational processes work as intended, although some felt there were aspects that could be more efficient.

Partners suggested that the Home Office could engage stakeholders earlier in the policy development process. Participants noted they faced challenge and confusion from internal colleagues, unaware that the processes they administer result from a Home Office policy. Linked to this, some considered it would be beneficial for Home Office colleagues to ensure they understood and considered how other partner organisations operated, and how the compliant environment aligned with this wider policy context, e.g., the benefits system. One interviewee suggested that sometimes, when implementing policy at pace, operational colleagues are not kept informed of developments resulting in some confusion amongst colleagues and could more broadly have a detrimental effect on interdepartmental relationships. One interviewee gave the example of the use of templates; previously, the Home Office changed templates frequently without notifying partner organisations, while not accepting old templates from decision-makers. This delayed the process and added work for OGDs.

Some of those interviewed felt that there could be some other drawbacks relating to policy, especially rapid changes, and implementing partners could struggle to keep up. One interviewee suggested that because the change process was rushed, expected due diligence was not fully implemented. As a result, they had seen a rise in litigation across the delivery of some of the policies that are derived from Home Office legislation changes.

Partners suggested that Home Office colleagues should be mindful of the operating context of OGDs when developing technical instructions around data sharing processes, as terminology differed by departments. Partners considered clearly defining terminology, within both the policy and resulting processes, to be beneficial in supporting consistent decision-making and preventing misinterpretation.



## Data sharing

Partners who rely on the integrity of the Home Office's immigration data for decision-making emphasised the importance of up-to-date case information on Home Office systems. On the whole, partners felt data sharing was timely, although some suggested accessing real-time data would be helpful. One interviewee encouraged the Home Office to ensure that data are refreshed daily, as partners want to ensure they can check information before taking action on those without status – enforcing as well as safeguarding people – and to be confident that they are making the right decision.

Some partners felt automating key processes could improve the speed of eligibility assessment. However, they flagged a risk that individuals who settled in the UK when there was no obligation to document their status (such as the Windrush generation) might be unable to access benefits they are entitled to under the new framework. Partners described upskilling in decision-making units to support such cases.

## Working relationship with the Home Office

Partners generally described positive working relationships with Home Office colleagues. OGDs appreciated having access to Home Office personnel with policy expertise, and some noted that since the Windrush scandal, access to Home Office officials and the availability of escalation routes has improved.

Partners identified areas for improvement in working with the Home Office to deliver the compliant environment. Some found it challenging to identify the appropriate Home Office staff to engage when they required help with implementation, due to organisational structures. They suggested that opportunities to bring relevant teams together as early as possible would better help to embed new processes into practice; for example, connecting relevant technical teams together rather than relying on policy intermediaries.

They also highlighted knowledge sharing as an area for potential improvement. Suggestions included clearly identifying the likely implications of policy upfront to allow partners to consider the likely impacts in their policy and operational context. Working together more closely could identify opportunities to streamline processes. One interviewee suggested partners would benefit from discussions directly with Home Office technical teams to discuss changes coming through rather than receiving second-hand information from policy professionals. This would enable new processes to be embedded more effectively, to the benefit of both organisations.

## Implications for the evaluation

As data sharing processes evolve and resume, it will be important to follow up with OGDs to understand how and if changes to processes have impacted partners. More information is required around partner organisations' own processes to assess applicants and upfront denial of services due to incorrect immigration status. Another area to explore in more detail is communications and complaints, as new safeguards, such as Routes to Redress, should mean that any customer concerns are dealt with promptly and by the Home Office itself.

## 7. Changes since Windrush

This report has primarily focused on events pre-Windrush. The evaluation will also seek to actively monitor performance going forward, which will include new internal data from data sharing, for example. The evaluation itself also intends to generate further research and data.

Since the Windrush scandal, the Home Office has proactively taken action to improve guidance, increase engagement and refine data processes.

This includes making it easier for British citizens without a passport to evidence their Right to Work (RtW) by updating the list of documents that are accepted for RtW checks, to include short-form birth certificates.

The Home Office has introduced a way for tenants to challenge a finding that they do not have the right to rent. This is known as the Minded to Serve process.

In terms of engagement, the Home Office has:

- set up a new NRPf stakeholder forum that meets quarterly; members include OGDs, local authorities, and non-governmental organisations (NGOs)
- used feedback from existing stakeholder groups, like the Employer Consultation with the Home Office (ECHO) group, to:
  - inform where there is a need to either review or adapt a policy
  - update guidance to make it easier for landlords and employers to follow
  - expand guidance to ensure it takes account of more bespoke situations that might be encountered
- run an external communications campaign to direct landlords to a [bespoke helpline](#) where they can obtain more advice
- published data – for the first time – on the number of people applying to have their NRPf condition lifted, and decisions in relation to those applications.

To improve the quality and handling of Home Office data, the department made a series of changes and introduced various safeguards in the system to prevent or alert the department if the compliant environment impacted someone for who the measures were not intended.

As a direct result of Windrush, bulk data sharing activities with other partners and government departments were restricted, although NHS debts of over £500 that had been outstanding for longer than two months continued to be shared with the Home Office, subject to some restrictions. COVID-19 led to the broader suspension of data sharing with OGDs, and the temporary pause of the issuing of civil penalties and debt recovery activity.

As of September 2021, bulk data sharing with HMRC, DWP and DVLA/DVA restarted with the additional safeguards in place.

To strengthen the processes and data, the Home Office has developed various safety mechanisms:

- Safety Valve Mechanism (SVM)
- Triple lock mechanism

- Routes to redress

Assessing safeguards will be an important way of understanding potential unintended consequences and the proportionality of the measures.

## Safety Valve Mechanism

The SVM is a referral mechanism that can be used at any point in the process if there is a case that causes concern. The mechanism provides additional support to decision-makers in cases where they feel that something is not right with the action that the relevant policy and guidance is pointing them towards.

The SVM does not replace the expertise that already exists within teams; it supports it by providing another avenue of advice when people feel unsure about the decision that they are making. It is accessible to all IE areas and does not focus solely on caseworkers.

The team comprises a virtual community of experts from across the Home Office who will advise, look for any trends in terms of issues raised, and work with policy to learn from cases to improve future responses.

## Triple lock mechanism

In November 2018, ISD introduced a triple lock process which enhances the existing safeguards in place on bulk data sharing with OGDs. This provides assurance and improves the quality of the existing manual check process. Depending on the directorate's workload, it may take ISD one to two business days to conduct these checks on the random sample of 100 cases prior to data sharing.

- **Lock 1:** At the beginning of the process, there are bespoke business rules which ensure directorates only share data relevant to what has been agreed. This allows records not appropriate for sharing to be excluded early on. Although previously these cases were picked up and removed at the manual check stage, now they are removed early in the process, preventing them being shared at all.
- **Lock 2:** 100 random records are sampled prior to sharing to ensure the business rules have allowed the right cases through. This monitors that the coding continues to be accurate and effective, providing assurance that only relevant cases are shared.
- **Lock 3:** Directorates carry out a manual check on matched records prior to any action being taken by partners. This provides a final opportunity to ensure the individual's status has not changed since the data was shared and ensures the process picks up any data quality issues.

In addition, ISD can put in temporary safeguarding measures to strengthen the system.

The data extracted from Home Office systems for sharing with HMRC, DWP, DVLA and DVA will include all cases that comply with the business rules and that have not been shared for six months. This means that cases that continue to meet the business rules criteria will be reshared every six months.

This resharing process will allow government partners to identify any individuals that have started or restarted accessing work, benefits, or services within that period. This will allow partners to identify cases that they would otherwise miss if details were only shared once.

The Home Office will analyse the outputs of resharing data in this way so it can understand the benefits and provide assurance that it remains proportionate to do so.

Once the datasets have been shared, partners must match the data shared by ISD with their own records to identify ineligible individuals subject to sanctions. This process takes place monthly following sharing by ISD, and timings vary slightly across partner organisations.

- For DVLA, this process generally takes three to five working days. DVA case numbers are small, and their matching process usually takes less than one week.
- HMRC matches the data against its records on a four-weekly cycle. ISD must share the data three weeks before a set HMRC deadline; if ISD miss the deadline, the initial matching is deferred to the next cycle. HMRC sends ISD the 'cleansed' data, obtained through data matching involving NINOs. ISD's Data and Sanctions Team (DAST) then send this list to the Civil Penalties Compliance Team (CPCT) as part of the RtW nudge letter process. HMRC sends the cleansed list to its Benefits and Credits Team before forwarding the matched dataset to DWP, who uses the NINOs to identify ineligible recipients of public benefits. As of November 2021, timescales for HMRC's matching process are unknown because ISD has received no data.

Internal referrals continue to be accepted and processed by the team as part of the data sharing. These cases are subjected to the same manual checking as the bulk data receives.

## Routes to Redress

Aside from established routes to raise concerns, such as the possibility to appeal a driving licence decision or dispute a civil penalty, since Windrush the Home Office has worked with OGDs to develop the Routes to Redress process. This enables individuals to contact the department where they have concerns about the accuracy of information being shared about their immigration status.

OGDs signpost the option of Routes to Redress to anyone who is given a negative decision based on the data sharing activities between the Home Office and OGDs. The form to raise concerns is available on a dedicated website which includes a postal option. The safeguard has been in place since August 2021 prior to data sharing restarting.

Routes to Redress aims to improve the Home Office's ability to listen, act promptly to rectify errors, and identify wider systemic issues. It allows those who feel impacted by a compliant environment measure in error to contact the department and have their query addressed.

Communication with those who receive letters relating to Home Office revocation measures includes the option to contact Routes to Redress. The initiative will allow the department to collect additional data on how the measures work and any unintended consequences.

## Implications for the evaluation

The ongoing monitoring plans will attempt to capture how the safeguards are working in terms of volume and quality of data. It is likely that the additional checks on data, and varying temporary safeguards in place, will affect the data, which need to be considered when comparing pre- and post-Windrush data. Routes to Redress will offer an important opportunity to explore unintended consequences and the reasons for any errors. This, in combination with additional work planned as outlined in this report, will provide a useful overview of the extent to which unintended consequences could still happen.

## 8. Monitoring and evaluation strategy to assess the compliant environment

The review so far has allowed us to assess the evidence and plan for the long-term evaluation. This report proposes a process and impact evaluation, along with an economic assessment where relevant data are available. Overall, the evaluation will aim to:

- assess the effectiveness and efficiency of how the compliant environment is implemented
- understand the impact of each measure and the cumulative impact of the compliant environment
- develop a monitoring strategy to assess ongoing performance and inform policy development.

To deliver these aims, the evaluation needs to define the key concepts: in particular, what the compliant environment is, who may interact with the measures, and in what ways. This report aims to define these concepts.

As seen in this report, the measures differ in how they are enforced and who they target. The evaluation design seeks to:

- reflect these differences
- ensure that the analysis is proportionate to the reach of the measure
- build on already identified data sources where these are available
- propose further research on identified gaps.

### Populations in relation to compliant environment and impacts

This review has found that there are a variety of different groups to explore, who may have different experiences, attitudes and behaviours in relation to the compliant environment.

- Irregular migrants who are not directly subject to sanctions or data sharing activities – known and not known to the Home Office.

*What drives this group to remain in the UK? How do they interact with the compliant environment measures? Are they proactively avoiding checks or simply not encountering them?*

- Irregular migrants affected by sanctions or data sharing activities.

*How are sanctions or enforcement activities impacting their behaviours and choices?*

- Regular migrants – temporary leave and permanent leave.

*Does the compliant environment create any unintentional barriers for this group? What role do those enforcing the rules outside the Home Office play?*

- British citizens – with and without documentation to prove status.

*Does the compliant environment create any unintentional barriers for this group? Are there any key points such as life events (changing job or moving house) that could have more of an impact on those without documentation? Are assumptions made based on appearance or name about someone's legal status and why?*

## Compliant environment – reach and implications for the evaluation

The analysis so far has highlighted that the compliant environment reaches far beyond the Home Office's own initiatives of sanctions and revocations. The number of irregular migrants subject to Home Office revocation activities (e.g. benefits or driving licence revocations) is relatively small. However, the amount of information the Home Office holds on these individuals is very detailed. Activities undertaken by others (e.g. landlords or employers) reach far more individuals and revolve around key aspects of anyone's life – health, work and rent. We know less about those who have been denied a service upfront and we will need to rely on external sources to understand how the compliant environment might impact those with and those without rights. We also know little about those who may avoid checks altogether – deliberately or unintentionally.

## Workstrands

The report has shown that the measures operate in different ways, affecting individuals in multiple ways. This means that the cumulative effects are not homogenous but will vary depending on someone's circumstances. Therefore, we will use multiple workstrands to fully assess the compliant environment:

- Assessment of each of the six individual measures separately.
- Draw up a monitoring plan for the compliant environment safeguards.
- Establish an ongoing monitoring strategy.
- Undertake cross-cutting assessments – draw on research with stakeholders and explore how to best include migrant views in the research; and other cross-cutting areas, such as the Windrush Compensation Scheme, as well as the assessment of the individual measures, and conduct economic analysis to explore impacts.

Given this, we will prioritise the focus of this evaluation on three key principles:

1. The number of individuals impacted.
2. The potential impact of the measure on someone's life.
3. The size of the evidence gap.

Throughout this report, the findings have identified the importance of understanding how the compliant environment is **implemented** given the number of public and private sector stakeholders involved in enforcing it. However, it will also be important to understand **impacts** to be able to assess what effects it has on deterring access to work, benefits or services, whether it prevents individuals becoming irregular migrants or generates any unintended consequences. The evaluation also needs to understand the **economic impacts** of preventing access, including money saved and any displacement impacts.

This means this evaluation will need to include elements of process, impact evaluation and economic evaluation.

## Assessing the six measures separately

This report has identified two measures that will warrant more detailed assessment: the RtW Scheme and Healthcare. These two measures are particularly complex due to the volume of people potentially impacted, the importance of access and the lack of readily available data. We may potentially commission work on these strands externally.

Measures such as driving and benefits revocations, where numbers are much smaller and the Home Office holds most of the necessary data, will be assessed mainly via data analysis and stakeholder engagement.

The summary below sets out the detail of the approach by measure.

In addition to undertaking an evaluation of individual measures, the new safeguards will also be assessed.

**Summary of the approach the evaluation intends to take by measure and why, as well as the availability of data:**

**Driving:** Revocation measure. Only applies to those with UK driving licences. While there are other activities under this measure, this will be the focus of the review.

- **Evaluation needs:** Understanding the relationship between revocations and individuals taking actions. Strategies for driving without UK licence or a valid foreign licence, and any alternative use of driving licences (ID etc). Any unintended consequences.
- **Evaluation approach:** Build on the existing data analysis and interviews with stakeholders and explore via wider stakeholder research.
- **Data availability:** Home Office drives the measure and impacts only those sanctioned – data quality is good pre- & post-Windrush.
- **Potential sources for data collection:** DVLA, digital economy employers, taxi driver associations, insurance companies.

**Access to benefits:** Revocation & denial measure. Revocation applies to those with benefits which are few.

- **Evaluation needs:** Exploring areas linked to NRPF that are relevant. Understanding denials (rejections at application stage). Understanding impact and makeup of those who have benefits withdrawn. To what extent have those who later regularised regained access to benefits? Understanding more about the impact of NRPF in the compliant environment. Any unintended consequences.
- **Evaluation approach:** Build on the existing data analysis and interviews with stakeholders and explore via wider stakeholder research.
- **Data availability:** Home Office drives the measure and impacts only those sanctioned – data quality is good pre- & post-Windrush. However, there is less data on NRPF inclusion.
- **Potential sources for data collection:** HMRC & DWP, Home Office NRPF forum, NGOs, local authorities.

**Access to banking:** Revocation & denial measure via closure of existing accounts or denial to open new accounts.

- **Evaluation needs:** Understanding the impact; strategies for using alternatives to established banking, and role of immigration checks as part of banks' overall risk assessment. Exploring data going forward as IA 2016 measures were in place for a limited time pre-Windrush. Any unintended consequences
- **Evaluation approach:** Once new data are available, build on the existing data analysis and interviews with stakeholders and explore via wider stakeholder research.



- **Data availability:** Home Office drives this measure – data quality expected to be good post-Windrush once available. However, data on closed accounts have been very small scale previously. No data on denials as banks do not need to report back to the Home Office.
- **Potential sources for data collection:** Banks (including online), banking associations and informal banking options representatives.

**Right to Rent Scheme:** Mostly a denial measure although small number of revocations (e.g. civil penalties).

- **Evaluation needs:** Understanding how we can use existing data to assess this measure going forward. Exploring any additional data needs going forward. This includes the effectiveness and impact of the measure. Any unintended consequences.
- **Evaluation approach:** Draw on existing evaluations and use external data, such as DLUHC<sup>45</sup> survey of landlords. Assess potential for setting up additional data collection.
- **Data availability:** Data on sanctions available internally but bulk of checks conducted by landlords and this data are not available. External data sources needed,
- **Potential sources for data collection:** Landlords and letting agent associations, NGOs.

**Access to healthcare:** Upfront assessment of right to free healthcare during presentation at secondary treatment providers. Non-urgent treatment in England that cannot be paid for upfront can be denied, urgent secondary treatment can be paid for after it has taken place.

- **Evaluation needs:** Exploring linkages between healthcare and the compliant environment – implementation, impact and perceptions.
- Exploring the overall perception of the measure and whether this drives behaviour. Specific focuses include migrants’ understanding of what care they can access and their perceptions of the Home Office’s involvement in charging. Any unintended consequences.
- **Evaluation approach:** Externally commissioned work – reviewing processes, with NHS and Home Office staff, and impacts and perceptions with stakeholder groups.
- **Data availability:** NHS drives the measure – data of medium quality as not all fed back to the Home Office and difficult to identify immigration issues. Explore data availability with NHS post-Windrush.
- **Potential sources for data collection:** NHS Trusts, patient groups, NGOs.

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<sup>45</sup> Department for Levelling Up, Housing and Communities, formerly the Ministry of Housing, Communities and Local Government.



**Right to Work Scheme:** Denial measure as employers check and deny potential candidates. The Home Office does conduct proactive activities too, such as employer nudge letter or issuing civil penalties.

- **Evaluation needs:** Exploring how the measure works for employers in changing contractual structures, digital economy and digitalisation of checks. Understanding the impact of revocation activities – in particular, the nudge letters. Understanding the impact of the measure on workers, including illegal working and the compliant environment. Any unintended consequences.
- **Evaluation approach:** Externally commissioned work to explore specific Home Office actions (nudge letters), denial processes and impact on migrants. If possible, also areas around illegal working. Assess potential for setting up additional data collection.
- **Data availability:** Data on sanctions and nudge letters available, but employers conduct the bulk of checks, and this data are not available. External data sources needed.
- **Potential sources for data collection:** HRMC, Employer associations, digital economy employers, NGOs.

### Assessing the compliant environment safeguards

The safeguards primarily aim to ensure that the Home Office has the processes in place to ensure quality in its data (triple lock) and in its decision-making (SVM) and that there is a route for those subject to checks to enable them to address any potential issues (Routes to Redress).

The evaluation will assess how it can best monitor the safeguards, but an ongoing assessment of Routes to Redress is planned, with internal findings being fed into this evaluation to understand any unintended consequences.

Routes to Redress is a service set up for those who have been affected by the measures and think the Home Office holds inaccurate information about their immigration status. A set of ongoing performance indicators will be set up to understand volume and nature of issues raised in relation to the compliant environment. User feedback will be sought where possible, and the information will feed into the overall evaluation at regular points (6 monthly to yearly).

### Establishing a monitoring strategy

Building on the analysis so far, we will identify suitable indicators from existing data. The research needs outlined in this report will help the Home Office identify any additional information that should be collected going forward.

The key aims of the compliant environment as outlined in the [Comprehensive Improvement Plan \(page 22\)](#) are:

- **Deter irregular migration:** This includes discouraging arrivals to the UK. This work relates to wider trends in irregular migration involving push and pull factors. Assessing the role of deterrence will involve understanding the proportion of irregular migrants that have regularised, left the UK, or are still in the UK and of interest to IE.

- **Secure compliance and support enforcement:** This is a core area and data are already available on many of the enforcement activities related to the compliant environment, although there are gaps around some areas, especially upfront denials.
- **Safeguard taxpayers' money:** The evaluation will try to understand better the extent the compliant environment prevents irregular migrants accessing services, what savings are made from revocations and whether the measures lead to any displacement costs.
- **Protect vulnerable migrants from exploitation:** Research with stakeholders will help understand the role that the compliant environment may play in this area, along with data such as civil penalties against employers and landlords.

## Logic

The report sets out the core logic of the compliant environment interventions and the expected outcomes. We will use this as a base to devise ongoing performance measures. This logic model will be improved upon as the evaluation progresses.

- **Inputs: Enforcers implement rules to deny or revoke access to work, benefits and services**

Rules are enforced by a variety of public and private sector stakeholders, including the Home Office, OGDs, banks, employers, and landlords. Data available about their respective roles varies.

- **Outputs: Checks conducted across the six measures to ensure access to work, benefits and services is lawful**

The Home Office leads on proactive data sharing with OGDs across several measures (benefits, driving and work), as well as enforcement actions (landlords and employers). Data on the volume of activities and characteristics of those subject to action are available. Public and private sector stakeholders, including banks, employers and landlords, conduct checks. Fewer data are available on these activities.

- **Outcomes: Restricting access leads to irregular migrants taking actions; safeguards mean unintended consequences avoided (protect vulnerable); and public finance not adversely affected (prevent access and reduced unintended consequences)**

Data on revocation measures linked to Home Office data sharing are already available, and will help assess the effectiveness of access prevention, such as the proportion of matches with OGD data and the proportion of irregular migrants stopped from accessing work, benefits and services they are not entitled to. This should include the value of savings made as well as an understanding of any displacements of costs.

More data will be needed to more effectively monitor denial measures.

Assessing safeguards should pick up any trends in issues raised and reviewing recurring issues should help the Home Office understand whether it has addressed root causes.

- **Impacts: Unlawful access prevented and deterred and taxpayers' money safeguarded**

Restricting access to work, benefits and services should lead to migrants changing behaviours, including taking steps to regularise their situation or leave the UK, reducing irregular migration overall.

A positive impact on public finances, with payments not made in error, debts repaid, displacement costs minimised, and a reduction in Home Office pay-outs due to erroneous actions taken.

Unintended consequences avoided by enforcement done correctly, and those exploiting vulnerable migrants seeing appropriate actions taken against them.

To better understand behavioural changes, we need more research with stakeholders, including exploring how to best obtain the views of irregular migrants.

### **Cross-cutting assessment of the compliant environment**

The evaluation will draw on each of the workstreams to assess the compliant environment. For example, to understand how individual measures lead to different combined impacts, and whether safeguards are effective across all measures. The work will also look at any unintended consequences of the measures, individually or cumulatively.

Beyond assessment of individual measures, there are several cross-cutting areas which will assess the cumulative impact of the compliant environment. These workstrands include:

- **Analysis of new data** available resulting from Windrush (such as data from the Windrush Compensation Scheme, and Routes to Redress)
- **Research with stakeholders** to better understand their awareness of the measures and behaviours of migrants regarding the compliant environment. This will use various techniques to gain a comprehensive understanding of the motivations of irregular migrants in the UK.
- **Ongoing monitoring and trend analysis** will help the Home Office understand whether some groups are more impacted than others.

The other aspect of a cross-cutting assessment of the compliant environment will be **economic analysis** to assess the costs associated with its delivery. The complexity of the compliant environment and the involvement of a variety of teams in the Home Office and outside partners makes assessing economic value challenging. Partners may not record all relevant activities; for example, costing checks and any resulting denials and processes may not be consistent. This makes a like-for-like comparison difficult. In fact, the complexity of the compliant environment means that the economic analysis may be most useful in focusing on specific individual measures.

Going forward, the economic analysis will draw on completed scoping work and use the additional new data collection to inform future economic analysis. It will be developed based on data quality and agreed definitions of scope. Beyond initial scoping of the economic analysis, there are opportunities to draw on:

- **Increased data collection on denials.** The lack of data when other partners enforce the measures means there is an inherent difficulty in assessing the full costs and benefits of each measure. This is particularly the case for the Right to Work and Rent Schemes and banking. Further planned research should help the economic assessment of these measures.

- **Exploratory analysis to explore the potential economic benefits of preventative actions.** As the compliant environment acts as a deterrent and, as seen in previous chapters, the data sharing activities and upfront eligibility checks are likely to have a preventative effect. This also requires assessment of unintended consequences such as displacement impacts.
- The analysis should assess any **potential evidence of savings of public money**, as with benefits being stopped, or encouraging debt re-payments to the NHS.

## Methodologies

The evaluation will use a mixed methods approach of qualitative and quantitative approaches.

### Individual measures

- Interviews and focus groups
- Surveys
- Trend analysis
- Outcomes analysis

### Safeguards

- Trend analysis and outcomes analysis, such as long-term outcomes of those subject to actions
- Interviews
- Focus groups

### Ongoing monitoring strategy

- Trend analysis
- Outcomes analysis

### Research with stakeholders and experts related to migrants

- Data mining/social media research
- Interviews
- Focus groups

### Cumulative impact of measures

- Trend analysis
- Outcomes analysis
- Difference-in-difference analysis (comparing those directly impacted by measures with groups of similar characteristics that were not)
- Interviews
- Focus groups
- Economic analysis

## Analytical challenges

A variety of stakeholders implement the compliant environment and collecting information across all measures consistently will be challenging.

## Measuring the impact of preventative action

One challenge is the preventative nature of the measures and the difficulty of measuring what the outcome would be if the measures were not in place. International comparisons may be helpful in this area to explore potential research approaches.

## Identifying the specific effect of the policy

Another complicated aspect to assess is that many actors will use immigration status as a standard variable in risk assessment, for example, overall risks of non-payment of rent will be difficult to disentangle the relative importance of immigration status compared to other considerations. A key aspect will be to understand whether the emphasis on immigration has changed since 2014, when legislation around irregular migration was clarified, and penalties increased, as with employment, or were introduced, as with rent.

## Lack of a baseline

An important component of any evaluation is to establish the baseline, i.e. the before and after of an intervention, to help assess the impact of said measure. Here there is no clear baseline to compare against as measures have been introduced at different times and data pre-2015 is of low quality. This means that the evaluation will need to approach the assessment differently, drawing on different time points to make the assessment.

## A counterfactual

The nature of the compliant environment is that rules should apply in the same way for all those affected. It is therefore not possible to conduct randomised control trials to assess the effectiveness of a measure because, by law, all irregular migrants should have the same services revoked or denied. As the measures are aimed at different groups and enforced differently, a large part of the assessment will have to be on individual measures rather than on the compliant environment as a whole.

There are a few ways that counterfactuals could be explored:

- **Action taken:** The evaluation could compare those deemed irregular migrants who were subject to an action by the Home Office and those who were not.
- **Exemptions to the rules:** It may also be possible to look at specific exemptions or instances where rules apply differently, such as comparing specific visa categories, to find comparison groups.
- **Differences within the UK:** Some of the measures only apply in England or are implemented differently in the devolved nations.

This could allow difference-in-difference analysis by assigning a treatment group (e.g. those sanctioned) and a comparison group of those who did not receive a sanction but were otherwise similar.

Given that immigration status can change over time, it may also be possible to explore conducting **longitudinal studies** with a subset of the migrant population.

## Next steps

As per the Comprehensive Improvement Plan, the evaluation of the compliant environment is complex, and we expect the evaluation will be ongoing over the longer term. The Home Office expects to publish outputs coming out of the four workstreams as appropriate.

The findings in this report have highlighted how the Home Office can best assess the compliant environment going forward – where the department holds data to continue with the type of analysis presented in this report, and where it needs to collect additional data for a more comprehensive assessment.

In the areas where this report has identified the main gap, the department hopes to commission a series of research projects externally in the 2022 to 2023 financial year. Once outputs are ready, the intention is to publish them as soon as possible.

## APPENDIX A: Data sharing in detail

In terms of individual measures relating to data sharing, we primarily used the Case Information Database (CID).<sup>46</sup> Note that the same pool of potentially disqualified persons was used to match against DVLA records (driving), HMRC (nudge letter and benefits) and DWP (benefits). See details below:

- **Data shared with other government departments (OGDs):** Provided by DAST from ISD. They did not include the exact date of sharing to OGDs; therefore, the first date of the month of data share was used as a proxy. Data spans from November 2014 to March 2018.
- **Driving licence revocations:** Provided by DAST. Data spans from July 2014 to February 2018.
- **HMRC or DWP benefits and credits revocations:** Obtained from CID. Data spans from December 2014 to January 2018.
- **NHS debtors:** Obtained from CID. Data spans from December 2014 to January 2018.
- **Employer nudge letters:** Provided by CPCT from ISD. Data spans from July 2014 to February 2018.
- **Civil Penalties:** provided by CPCT. Data spans from March 2014 to March 2018.  
**Current account closures:** Obtained from CID. Data starts from February 2014, but there have only been 24 closures up to September 2021.

### Data sharing – reviewing outcomes

Data sharing for each of the six measures included a CID person identity code, which is an identifier that uniquely determines an individual in the in-country casework system. This identifier enabled the shared data to be linked back to CID and other Home Office databases, meaning it is possible to look at those sanctioned pre-Windrush and assess their demographics and subsequent immigration status after the sanction. In this report, we explore the immigration status as at 23 May 2021, alongside enforced, voluntary or port returns following a sanction as recorded on CID.

Though a rare occurrence, a person may have more than one CID person identity code, which can happen for many reasons. Examples include issues related to the manual input of data on CID, or the person trying to use a false identity by providing incorrect biographical data that were subsequently loaded into CID. To prevent double counting of people when looking at the immigration status makeup, the matching methodology used in the Initial Status Analysis (ISA) system was used to identify individuals with more than one distinct CID person identity code. Note that section 3.1 in the Home Office statistics has an overview of the ISA system, which briefly mentions the matching. This allows for correct linking together of sanctions belonging to the same individual but to different CID person identity codes.

Once matched, data are deduped so that a person has at most one sanction or action record of each type per day. This decision was taken because multiple sanctions or actions on the same day may represent one total action taken on the individual. For example, in the nudge letter process, a migrant may be the subject of multiple nudges sent out on the same day, meaning they may have more than one employer at that moment in time. In this analysis, these are considered as one nudge event.

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<sup>46</sup> The Case Information Database (CID) is the Home Office's main caseworking and operational database. It is used throughout the Home Office to record personal details of all foreign nationals who pass through the immigration system.



Demographics of individuals were obtained from CID and include date of birth, gender and nationality. Age statistics in this report relating to unique individuals use their age as at the first action or data share. Reviewing the data, it is possible to follow individuals over time and understand what actions they have taken since receiving the sanction, although we cannot say whether it is due to the sanction. The following broad outcomes as of May 2021: a person has regularised their status, their case is under review (e.g. appeals, outstanding asylum application), are of interest to IE or have left the UK.

It is important to note that immigration status is very fluid and can change over time. In this report, we have been exploring outcomes as a snapshot of their immigration status as at 23 May 2021. We also need to look at various other points in the data so that we can better understand outcomes in the shorter and longer term.

### Data quality

There are data issues, particularly with older data, in some strands. Most issues relate to completeness of the data, particularly around 2015 or earlier, and seem to result from data retention issues and the historical manual management of data. So far, measures impacted with lack of completeness issues are the Right to Work (nudge letters), public fund revocations, and data shared with OGDs.

Demographics, NHS debtors, public fund revocations, returns and data related to outcomes were obtained from CID. These are all subject to data quality issues related to managing a live, operational database. A live database may see a time lag in data entering the system or older data reviewed (such as dates of birth) and subsequently modified or deleted.

For data shared with OGDs, over 600,000 records corresponding to records shared between November 2014 and March 2018 were obtained. However, there were some individuals in the driving licence revocations, public fund revocations or employer nudge letters data who were missing from this data set. This suggests that shared data are incomplete because people subject to driving licence revocations, public fund revocations or employer nudge letters should have been picked up through the data sharing with OGDs. However, the size of the incomplete data is considered large enough to be of interest for this report.

Nudge letter data provided for this analysis are incomplete, as they do not include individuals flagged through ad hoc activity that predominantly occurred in 2015.

For NHS debtor data, prior to 6 April 2016, the threshold for reporting a debt was over £1000, outstanding for 3 months. As of 6 April 2016, the threshold is £500, outstanding for 2 months. This creates a step change in the data, with more cases known to the Home Office due to the lower thresholds. Furthermore, not all NHS Trusts report debtors to the Home Office, and the number reporting by month can vary.

Only current account closure data were available for banking. However, the first recorded current account closure was in February 2018 and there have only been 24 closures up to September 2021. Current account refusals began in 2014 via the Immigration Act 2014, but no data are available because banks had no obligation to share data with the Home Office. This meant there were insufficient data to provide any meaningful breakdown of outcomes or demographics of individuals impacted by banking measures.



