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# Social and Equality Impacts of Brexit

A REPORT FOR THE SCOTTISH GOVERNMENT BY  
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# **Social and Equality Impacts of Brexit**

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# Executive Summary

## Why do this analysis

This report focuses on the potential social and equality impacts of Brexit.

A social and equality assessment is valuable because Brexit will bring major, long-term, systemic changes to Scotland. Brexit also continues to bring confusion and uncertainty about the future of the UK, and how leaving the EU might affect the lives of the UK's inhabitants. It is highly likely that vulnerable groups will be affected, and that unintended and unforeseen consequences will ensue.

However, the UK government has not produced a full equalities impact assessment of Brexit, which includes the potential legal and socioeconomic effects on different groups of people in the UK. An 'Equality Analysis' of the previous European Union (Withdrawal) Act 2018 (under Theresa May) was narrowly focused on the legislative equality impacts, and did not differentiate impacts on a group-by-group basis. More recently, the EU (Withdrawal Agreement) Bill – which was initially introduced by the UK Government in October 2019 and revised and reintroduced following the general election in December 2019 – was not accompanied by a separate Equality Impact Assessment or 'Equality Analysis', although the accompanying Impact Assessment (IA) for the October version did contain two paragraphs on 'equalities'.

**Overall this leaves a significant gap in our understanding of the potential social and equalities implications of Brexit.**

## What this report covers

This report asks: what effect might the UK's decision to leave the EU have on the legal rights and protections of individuals and groups in Scotland? In the case that Brexit has a negative impact on the UK economy, what might this mean for people's jobs, spending and access to public services? This report examines these questions from the perspective of twenty equalities groups in Scotland who may face discrimination or exclusion as a result of their personal characteristics. These groups include disabled people, people from minority ethnic communities, migrants, care-experienced people, elderly people, faith and religious communities, children and young people, homeless people and women.

**In total, the report identifies 137 potential social impacts across equalities groups, including the loss of legal rights, employment protections, funding opportunities, healthcare rights, and impacts on food, fuel and medicines.**

While some of these impacts reflect similar trends (e.g. the loss of certain rights/services), they are distinct in terms of how they happen, who they affect, or both.

The report begins by considering what we mean by 'equalities groups'. It identifies groups of people who fall into the categories of 'protected characteristics' specified

under the Equality Act (2010), and those with other personal characteristics who may face social exclusion or discrimination.

The analysis then suggests that Brexit is likely to have both general socioeconomic and legal impacts, as well as specific impacts, for equalities groups. Moreover, these **impacts will differ depending on the type of Brexit that occurs.**

## **General impacts of Brexit since June 2016**

The report identifies some of the *general* consequences for equalities groups of the Brexit negotiations to date, resulting from social and economic impacts of the EU referendum and subsequent discussions surrounding how the UK will leave the EU. Effects of Brexit to date include impacts on community relations, the labour market, representational impacts, legislative impacts, immigration uncertainty and mental health and wellbeing impacts.

## **Impacts of a hard Brexit**

The report then looks to the future, by anticipating the general impacts of different types of Brexit going forward. The first scenario - a 'hard' managed Brexit – will result if both:

(i) the UK Government's European Union (Withdrawal Agreement) Bill (or 'EUWAB' for short) is passed by the UK Parliament and enacted in order to implement, and permit the subsequent ratification by the UK of, the revised Withdrawal Agreement (followed by the ratification of the Withdrawal Agreement by the European Parliament) and;

(ii) the UK Government proceeds to negotiate a future economic and security partnership with the EU on the basis of the revised Political Declaration, which contains some commitments to ensuring a 'level playing field' between the UK and the EU (i.e. common rules and standards, for instance in competition and state aid, tax and social and environmental protection) whereby the "precise nature of commitments should be commensurate with the scope and depth of the future relationship and the economic connectedness of the Parties."<sup>1</sup>

Potential impacts include: loss of rights, economic and public services impacts, increase in hate crime, immigration and labour market impacts, and the potential for further dilution of equalities rights and protections.

## **Impacts of a softer Brexit**

A second scenario, a 'softer' managed Brexit, may occur if the UK Government's proposed future relationship and trade deal with the EU – the key points of which are outlined in the non-binding Political Declaration that accompanies the Withdrawal Agreement– is softened during the course of UK-EU negotiations. This may involve, for instance, efforts to ensure greater regulatory and legal alignment with the EU by committing to more comprehensive level playing-field provisions and

closer alignment with the single market and customs union. Nevertheless, potential impacts of a softer Brexit include: loss of some rights, economic and public services impacts, increase in hate crime, immigration and labour market impacts, and the potential for further dilution of equalities rights and protections.

## **Impacts of a no-trade deal Brexit**

An unmanaged or 'no-deal' Brexit, where the UK does not withdraw from the EU under the terms of the Withdrawal Agreement is now unlikely to occur at the end of January 2020 (as the EUWAB has completed its passage through the Commons and the Lords' scrutiny is expected to be concluded during the week commencing 20 January, allowing sufficient time for the Withdrawal Agreement to be ratified by both the UK and EU in advance of the 31 January deadline for the UK to leave the EU at date).

However, a third scenario – a no-trade deal Brexit – may still occur at the end of December 2020, if a UK-EU trading relationship is not agreed by then and there is no agreement by June 2020 to extend the transition period beyond 2020. If the transition period ends without the UK having agreed a deal with the EU on the future relationship, this outcome is likely to share many of the characteristics of the unmanaged 'no deal' Brexit which seemed a distinct possibility for much of 2019. This could, for example, include transport disruptions leading to shortages in medicines, rising food and energy prices, impacts on safeguarding and protection, loss of rights, social care impacts and community tensions.

## **Specific impacts on 20 equality and social groups**

The next section of the report focuses on specific impacts of different types of Brexit. It identifies 20 equalities groups that may be affected by Brexit, looking at three areas of potential impact through changes to:

- (1) their legal rights;
- (2) public services and funding;
- (3) their employment, housing and (consumer) spending prospects.

The infographics below summarises the potential impacts of Brexit on individuals.



The 20 groups analysed include: women, children and young people, older people, minority ethnic communities, EU nationals, refugees and asylum seekers, people on low-incomes, disabled people, pregnant women and mothers, faith and religious communities, LGBTQIA+ communities, Gypsy/Traveller communities, care-experienced people, people with caring responsibilities, people in remote and rural areas, precarious workers, offenders and ex-offenders, homeless people, people with substance abuse issues, and men.

## A closer look at three case studies

The report also focuses on three case studies – women, disabled people, and minority ethnic people – to explore in depth the potential impacts of Brexit (across their legal rights, access to public services and funding, and employment, housing and consumer spending) for these equalities groups. These case studies also consider the potential for people’s resilience to these impacts, and whether each of these impacts is more or less likely under three possible Brexit scenarios – hard, softer and no-trade deal Brexit.

## Emerging findings

The report finds that impacts will **differ depending on the type of Brexit** pursued:

- a ‘no-trade deal’ Brexit is likely to have the largest number of adverse impacts across people’s legal rights and welfare standards;
- a ‘hard’ Brexit (reflected in the Withdrawal Agreement and the future UK-EU relationship proposals contained in the revised Political Declaration) will have similar effects to a no-trade deal Brexit in that it is likely to result in the loss of significant legal rights;

- a ‘softer’ Brexit – whereby the future UK-EU trade deal is softened (compared to the Political Declaration) to include more comprehensive level playing-field commitments – could protect some rights (i.e. employment) but will still result in the loss of others (i.e. European citizenship).

The report finds that the **potential socio-economic effects of any type of Brexit, in the case that the economy performs poorly and there are cuts to public services, will likely to be widespread across equalities groups, many of which tend to possess fewer economic resources, are more likely to be on low-incomes, have precarious employment, and are more reliant on public services.**

**Many equalities groups are also likely to feel the shared impact of any loss of EU rights and protections which are not transposed into UK domestic law** (such as the freestanding right to non-discrimination which is part of the EU Charter of Fundamental Rights). People will also be affected by the discontinuation of EU social rights, such as the European Health Insurance Card (EHIC), the EU Blue Badge for disabled parking, and equal rights to social security.

Equalities groups across the board are also likely to be **adversely affected by the UK’s exit from the European Structural and Investment Funds (ESIF)**, which have to date provided extensive funding to equalities organisations across Scotland/the UK to support the rights and welfare of equalities groups, especially if these funds are not sufficiently replaced by the UK Government’s proposed post-Brexit Shared Prosperity Fund.

Furthermore, **specific equalities groups will likely be affected by the potential amendment or repeal of specific pieces of EU secondary legislation or CJEU rulings that are not part of primary legislation in the UK, which are most at risk under a hard Brexit and a no-trade deal Brexit.** These include directives on pregnant workers and agency workers (which a former UK Brexit Minister has advocated repealing), air passenger rights, and the right of unaccompanied children seeking asylum to unite with family members. Equalities groups are also likely to lose out on future EU equalities legislation (such as the EU Work-Life Balance Directive and the European Accessibility Act) if the UK, at the end of the transition period, decides not to continue to align with these directives.

Likewise, equalities groups may miss out on any additional equalities protections provided by future rulings of the Court of Justice of the European Union (CJEU), raising concerns that some equalities rights enjoyed by different groups in the UK as a result of EU law will be ‘frozen in time’.

Finally, the report finds that the potentially adverse socio-economic and legal **impacts of the UK’s decision to leave the EU will be most deeply felt by people experiencing multiple disadvantage, who are likely to have less resilience to cope with multiple adverse impacts.** The report therefore suggests that future research should adopt an intersectional perspective on equalities impacts, as those people who have more than one protected characteristic (for example, minority ethnic women, young care-experienced LGBTQIA+ people, EU

nationals on precarious work contracts, or disabled single mothers) are likely to be most affected by Brexit, and are less likely to be resilient to potential impacts.

### **General Election 2019**

Most of this report was researched and written prior to the general election on 12 December 2019, which returned the incumbent Conservative government with an overall majority (365 out of 650 seats in the House of Commons). However, the analysis contained in this report regarding the social and equality impacts of Brexit is just as relevant as it was prior to the election, indeed, more so.

With the imminent passage of the European Union (Withdrawal Agreement) Bill, the UK is now set to leave the EU on 31 January 2020. This means that the options on Brexit have significantly narrowed, with the likelihood of a second referendum on Brexit or revoking Brexit (two possible Brexit scenarios) in effect ruled out.

Given the Conservative government's overall majority, and its greater ability to pass legislation, the Prime Minister's stated preference for a "hard" Brexit and leaving with some form of UK-EU trade deal before the end of the transition period seems the most likely.

This may change if the Conservative government softens its position on the UK-EU future relationship in the course of negotiations in 2020 and agrees to level playing-field commitments and alignment with EU law (leading to a softer Brexit), or if the UK fails to negotiate a trade agreement with the EU by December 2020 (leading to a no-trade deal Brexit, whereby the UK reverts to WTO terms in its EU relations).

# Introduction

It is widely understood that any significant political or economic change will create ‘winners’ and ‘losers’, i.e. it will advantage some people while disadvantaging others. The UK’s decision to leave the EU is no exception, though the number of clear-cut ‘winners’ is difficult to establish; due to uncertainty around the form that Brexit will take (but which, according to some commentators, could include certain investors<sup>2</sup> and businesses that are internationally-focussed and able to adapt<sup>3</sup>).

The number of potential ‘losers’ from Brexit is also difficult to fully anticipate, but appears to be far broader, due to the Bank of England’s analysis that UK GDP growth has slowed “because of Brexit-related factors”<sup>4</sup> and the UK Government’s analysis on the long-term economic impact of Brexit, which forecast that a FTA (hard) Brexit or a WTO (no-trade deal) Brexit could result in slower economic growth and GDP being between 4.9% and 9.3% lower compared to staying in the EU.<sup>5</sup> Any negative impact on the UK’s economic performance could result in reductions in public spending, cuts to public services and job losses. Furthermore, the UK’s decision to leave the EU – whereby it will no longer be subject to EU law or rulings by the European Court of Justice – means that UK citizens (and EU nationals in the UK) are likely to lose a package of EU-derived legal rights that have to date formed their European citizenship.

Whether they are ‘winners’ or ‘losers’, Brexit is likely to affect every person in the UK, due to the far-reaching (and as yet, difficult to fully anticipate) social and economic implications and the anticipated significant changes to the UK’s legal framework of rights. However, it has also been widely argued that Brexit will disproportionately affect certain groups who are ‘more at risk than others from economic impacts and a loss of rights and protections.’<sup>6</sup>

In particular, Brexit will have a greater impact on particular communities that have the least power and privilege in society, i.e. those who already face barriers to inclusion, as well as disadvantage, hardship and discrimination. These groups – which we will include under the term ‘equalities groups’ due to the fact that they face inequality in society – will likely be disproportionately affected by Brexit, which may adversely affect their social, economic and civic rights.

This report identifies a total of 137 possible impacts of Brexit on twenty different types of equalities groups. These include impacts on legal rights, access to public services, access to funding, employment, housing and consumer spending.

The report begins with an overview of the research methods used to compile this analysis and a summary of the policy background to the report. It then offers a definition of equalities groups, before examining how Brexit has impacted these groups since the 2016 referendum. The focus then turns to the future, and the likely impacts of different types of Brexit going forward: a hard Brexit (as proposed by the UK Government in December 2019), a softer Brexit (if that Deal is amended to ensure a more comprehensive commitment to level playing-field provisions) and a no-trade deal Brexit (if the UK fails to secure a trade deal with the EU by the end of

the transition period, and it is required to operate on WTO trading terms). There is a long-list of impacts on 20 equalities groups, as well as three case studies examining how Brexit may affect women, disabled people and minority ethnic communities. The report concludes with some suggestions for further research.

# Research Methods

The Scottish Government commissioned Dr Eve Hepburn to produce a think piece on the possible impact of Brexit, in its different forms, on different groups of people in Scotland. The analysis was to include a focus on equalities groups, examining the potential implications of Brexit for the employment, public services and spending prospects of individuals and communities. The work was commissioned in September 2019, and a draft report was produced at the end of that month. The project was then extended to November 2019 to include an analysis of the EU (Withdrawal Agreement) Bill. Finally, the report was updated following the results of the UK General Election on 12 December and the passage of the revised EU (Withdrawal Agreement) Bill through the UK Parliament in January 2020.

## Aims of Research

The research seeks to provide an overview of the social impacts of Brexit on individuals and communities. It is intended to complement economic analyses of Brexit, which tend to focus on impacts on businesses, the economy and GDP. The report also complements the Brexit Vulnerability Index, which focussed on implications for local-level geographical communities and was published by the Scottish Government on 9 October 2019.<sup>7</sup>

This research focuses on people. It examines how Brexit may affect the daily lives of individuals in Scotland, with a particular focus on people with less privilege in society. The research is divided into a number of sections that explore:

- general social impacts of the UK's decision to leave the EU to date;
- potential impacts of three different types of Brexit: (a) a 'hard' Brexit (as currently proposed by the UK Government); (2) a 'softer' Brexit; and (3) a 'no-trade deal' Brexit;
- different types of Brexit-related impacts on the lives of individuals, including their (1) legal rights; (2) access to public services and funding; and (3) employment, housing and consumer spending;
- 137 Brexit-related impacts on 20 equalities groups in Scotland;
- people's resilience to these different potential impacts.

## Methodology

The research uses qualitative methods, including the analysis of primary and secondary documents, to examine the impact of Brexit on different groups of people. Due to the short timeframe of this project (23 days of work), the research relies on a desk-based rapid review of the evidence base. This includes the analysis of over 50 reports (produced by civil society organisations, government departments, parliament libraries and think tanks across Scotland and the UK), EU and UK legislation, academic research (articles, blogs) and news articles.

## **The Author**

Dr Eve Hepburn FRSA founded the policy research consultancy PolicyScribe in 2017 after spending fifteen years in academia. Eve is an Academic Fellow at the Scottish Parliament and an Honorary Fellow at the University of Edinburgh Europa Institute. She has authored nine books and over 50 refereed journal articles and book chapters. She has held academic positions at universities throughout Europe and North America, and was most recently Senior Lecturer in Politics and International Relations at the University of Edinburgh.

## **Limitations and Further Research**

This research is by no means intended to be comprehensive. Instead, it is a first attempt to develop an overview of the different types of impact that Brexit may have on social and equalities groups in Scotland, given the lack of a sector-by-sector UK Government Equalities Impact Assessment of Brexit. Further research may seek to focus in more depth on specific equalities groups, by conducting primary research with individuals and communities (interviews, focus groups, community consultations) as well as stakeholders (civil society organisations, service providers) to gauge the nature and depth of different Brexit-related impacts, and how any adverse impacts may be mitigated as Brexit commences. It is hoped, however, that this research provides a starting point for further discussion on the social and equality impacts of Brexit.

The descriptions of legislation in this report are intended to provide a broad narrative to set the context for the analysis. They represent the views of the author and do not necessarily reflect any interpretation of legislation by the Scottish Government.

# Equalities Groups

This report focuses on the impact of Brexit on different groups of people, in other words, the 'social impact' of the UK's decision to leave the European Union. However, the research is especially interested in the impact of Brexit on people in society who possess less privilege, power and capital, due to their experiences of structural inequality, exclusion and discrimination. For that reason, this research will focus on the experiences of 'equalities groups' in Scotland, and the ways they may be affected by Brexit.

Equalities groups describe key groups of people who are most likely to experience discrimination and inequality based on their personal characteristics, and whose rights are protected under the Equality Act (2010).<sup>8</sup> This Act covers everyone in the UK, and is intended to protect people from discrimination, harassment and victimisation.

There are 9 'protected characteristics' under the Equality Act<sup>9</sup>:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Given these protected characteristics, we can therefore surmise that individuals and groups whose rights are directly covered under the Equality Act include:

- Children and young people
- Older people
- Disabled people
- People with long-term health conditions
- Lesbian, gay, bisexual, transgender, intersex and asexual (LGBTIA) people
- Non-binary people
- People who are married or in a civil partnership
- Pregnant women and mothers
- Minority Ethnic communities
- Refugees and asylum seekers
- Gypsies / Travellers
- Faith or religious communities
- Women
- Men

Yet, individuals or communities may also face discrimination or exclusion on the basis of other personal characteristics that are not designated as 'protected' under this act. In particular, people may face inequality or discrimination as a result of their upbringing, socio-economic status, housing status, immigration status, experience of social services, or geographical location. For that reason, this report suggests that we widen our understanding of 'equalities groups' to include the following groups of people:

- People on low incomes / socio-economically disadvantaged
- People with a migrant background (including EU nationals)
- People with care-experience<sup>10</sup>
- People with caring responsibilities<sup>11</sup>
- People in specific locations (such as remote and rural areas)
- People with substance abuse/addiction problems
- Homeless people

In this broader understanding, equalities groups can therefore be defined as people or communities who face inequality, discrimination or social exclusion due to their protected or other personal characteristics.

# Equalities Duty

It is important to note that, as well as providing protections to people with ‘protected characteristics’, the Equality Act 2010 also places a duty on public-sector bodies (such as the government, parliament, local councils, and the NHS) to consider how their decisions and policies affect people with different protected characteristics. However, the UK Government also points out that the Public Sector Equality Duty contained in the Equality Act 2010 does not apply to the introduction of Bills in Parliament, and in 2017 set out, “there is therefore no legal obligation on the Government to conduct and publish an equalities analysis of the [European Union Withdrawal] Bill under the Equality Act.”<sup>12</sup>

Overall this means that the UK Government has not undertaken a sector-by-sector impact assessment of how Brexit may impact on people with different protected characteristics. Instead, it produced a generic ‘Equality Analysis’ alongside the EU (Withdrawal) Bill in 2017,<sup>13</sup> and it included two paragraphs on ‘equalities’ in the Impact Assessment accompanying the earlier version of the European Union (Withdrawal Agreement) Bill in October 2019.<sup>14</sup>

The 14-page 2017 Equalities Analysis considers the effect of the EU (Withdrawal) Bill on five areas of legal rights with regard to equalities:

- the Charter of Fundamental Rights,
- the greater principles of EU law,
- the direct effect of EU directives,
- the ability to claim Francovich damages,
- and pre-exit case law from the European Court of Justice.

In each case, the UK Government anticipates limited or no adverse impact of Brexit on equalities, due to existing protections under UK law. For instance,

- with regard to the Charter, the Equalities Analysis (EA) states that “the removal of the Charter from UK law does not affect the retention in UK law of fundamental rights or principles...For this reason, we do not consider that there will be an impact on those with protected characteristics as defined by the Equality Act 2010”<sup>15</sup>
- on principles of EU law, the EA states that while “it would not be open to the courts after exit day to disapply or quash legislation on the grounds that it breaches one or other of the general principles (for example the principle of equal treatment), the courts will continue to be required to interpret pre-exit legislation in a way which is consistent with relevant general principles... the Government considers that the provisions in the Bill dealing with changes to the operation of the general principles are likely to have a limited impact on individuals with protected characteristics.”
- on EU directives, the EA states, “after exit, there could be a provision in a directive in the equalities sphere on which a person with a protected characteristic could have sought to rely directly on grounds that it had not

been properly implemented (or had not been implemented at all). We recognise that the proposed provisions in the Bill could potentially impact on those with protected characteristics...[but] any such impacts would be limited.”

- On Francovich damages (where states must compensate individuals for damage suffered as a result of the state’s breach of EU law), the EA states that “where an impact on those with protected characteristics might arise as a consequence of the removal of the ability to claim Francovich damages, this will be limited.”
- On CJEU case law, the EA states “It is not yet known what impact this will have on those with protected characteristics but we recognise that the proposed provision might create both beneficial and/or adverse impacts on those with protected characteristics where a court departs from retained CJEU case law.”

While the 2017 Equalities Analysis acknowledges that there may be ‘limited’ impacts of Brexit on people with protected characteristics, it does not go into any detail about what these impacts may be, how widespread they are, and how it may impact different groups.

Furthermore, the EUWAB (October 2019) Impact Assessment does not acknowledge any potential for adverse impacts, stating that there will be “no undue effect” on equalities groups. The revised EUWAB (December 2019) – despite removing both provisions relating to protections for workers’ rights and an obligation on UK Ministers to seek to negotiate an agreement with the EU to make provision for arrangements between the UK and the EU for unaccompanied children seeking asylum – was not accompanied by a new Impact Assessment.<sup>16</sup>

The view that Brexit will have ‘limited’ or ‘no undue’ effects on social and equalities groups in the UK has been challenged by civil society organisations, think tanks and academics, as we will discuss below. These organisations have been examining the potential impacts of Brexit on specific equalities groups; and it is largely upon these data that this report relies, to determine the social impacts of Brexit on equalities groups to date, and further impacts after Brexit occurs.

# Policy Context

## The Road to Brexit: a Timeline

 On 23 June 2016, the UK Government held a referendum on whether the UK should remain a member of the EU or leave the EU.<sup>17</sup> A majority of voters in the UK (51.9%) voted to Leave, whilst a majority of voters (62%) in Scotland voted to Remain.

 The UK Government obtained the approval of the UK Parliament to trigger Article 50 of the Treaty of the European Union – which governs a member state's withdrawal from the EU – and the two-year countdown for negotiations on withdrawal began on 29 March 2017.<sup>18</sup>

 In July 2017, the UK Government introduced the EU (Withdrawal) Bill, which was designed to give legal effect to the UK's withdrawal from the EU in UK law.<sup>19</sup> The Bill was approved by the UK Parliament (without the consent of the Scottish Parliament) in June 2018.

 In November 2018, the UK and EU completed negotiations on the UK's withdrawal from the EU, and a Withdrawal Agreement (pertaining to citizens' rights, the financial settlement and the Irish border) and a Political Declaration (on the future UK-EU relationship) were agreed.<sup>20</sup>

 However, the UK Parliament rejected the Withdrawal Agreement (and Political Declaration) on three occasions in early 2019<sup>21</sup>, requiring the then Prime Minister Theresa May to request an extension to Article 50. Following an initial short-term extension, the EU agreed to extend to 31 October 2019.<sup>22</sup>

After Theresa May's resignation, Boris Johnson became Prime Minister in July 2019.<sup>23</sup> Boris Johnson negotiated a new Withdrawal Agreement and Political Declaration with the EU in October 2019, which broadly involved a close economic relationship between the EU and Northern Ireland to prevent a 'hard border' on the island of Ireland, and a looser relationship between the rest of the UK and EU. The revised deal also included the removal of level playing field commitments in six policy areas set out in the Protocol on Ireland / Northern Ireland in the Withdrawal Agreement, which were replaced by less specific and non-binding commitments to upholding these principles in a future UK-EU relationship.<sup>24</sup>

 The implementing EU (Withdrawal Agreement) Bill (EUWAB), passed its second reading in the House of Commons on 22 October. However, the UK Government's proposed timetable for the Bill was rejected by Parliament and the EUWAB fell on dissolution of Parliament in advance of the 12 December General Election as it had not completed its passage through the UK Parliament<sup>25</sup>. The European Union (Withdrawal)(No. 2) Act 2019 (commonly referred to as the Benn Act) required the Prime Minister to receive parliamentary approval for either a negotiated withdrawal agreement or a no-deal Brexit. In the event of there being no parliamentary support for either option, the Prime Minister was required, by 19 October, to request an extension to the Article 50 period to 31 January 2020. That request was sent as

required and the EU Council of Ministers agreed on 28 October to extend Article 50 negotiations to 31 January 2020. On 13 December, Boris Johnson was returned as Prime Minister with an overall Conservative majority in the general election of 12 December. The EUWAB was subsequently revised and brought back to parliament as a new bill on 19 December 2019, and it passed the committee stage in the House of Lords on 16 January 2020.

## **European Union (Withdrawal Agreement) Bill**

The EU (Withdrawal Agreement) Bill (EUWAB) was introduced in the House of Commons in October 2019 to ratify and implement the UK-EU draft international treaty for the UK's withdrawal from the EU. On dissolution of Parliament for the 12 December general election, the October EUWAB fell. Upon winning a majority in the election, Boris Johnson's Conservative Government revised and reintroduced the EUWAB in the House of Commons on 19 December. The new, revised version of the EUWAB passed its second reading in the House of Commons on 20 December, and its third reading on 9 January 2020, before being passed to the House of Lords for scrutiny. At the time of writing it is expected to receive Parliamentary approval and be sent for Royal Assent.

The EUWAB is a significant piece of legislation that implements the Withdrawal Agreement, as agreed between the UK and the EU. The Withdrawal Agreement sets out the terms by which the UK leaves the European Union.<sup>26</sup> The Withdrawal Agreement covers issues relating to (a) the preservation of citizens' rights; (b) a protocol on Northern Ireland to prevent a hard border with the Republic of Ireland; (c) the transition period; (d) other separation issues (e) the financial settlement; and (f) provisions on the governance of the Withdrawal Agreement, including dispute settlement. Alongside the Withdrawal Agreement, which the EUWAB will implement in UK domestic law, the UK Government negotiated a non-legally binding Political Declaration with the EU, which sets out a framework for the future relationship between the UK and EU after the transition period ends.

The revised Withdrawal Agreement, which the EUWAB will implement into domestic UK law, has a number of implications for equalities groups after Brexit. These include provisions on EU citizens' rights in the UK, the removal of (earlier) provisions relating to non-regression on workers' rights, and the removal of an obligation on UK ministers to negotiate with the EU to reach agreement on making provision for arrangements between the UK and the EU for unaccompanied children seeking asylum.

The following analysis focuses on the revised (December 2019) version of the EU (Withdrawal Agreement) Bill. Where relevant, references are made to any changes to the EUWAB since the earlier October 2019 version. In particular, key differences in the revised (December) EUWAB include: the removal of provisions relating to workers' rights; the removal of a requirement on UK Ministers to seek to negotiate with the EU to agree certain arrangements between the EU and UK on unaccompanied asylum-seeking children; provisions to enable UK Ministers to make regulations to provide that (specified) lower courts are able to depart from retained EU case law in certain situations; a provision to prohibit a UK Minister

agreeing to any extension to the transition period; and the removal of provisions giving the UK Parliament a role in approving negotiating objectives in the next phase of UK-EU negotiations and approving the final UK-EU treaty.<sup>27</sup>

## **Citizens' Rights**

The Withdrawal Agreement sets out the rights of EU citizens living in the UK, and UK citizens living in the EU, to continue to live, work, study and access public services in broadly the same way they do now (the UK has made separate agreements with the EEA states and Switzerland, which mirror the offer in the WA). The EUWAB provides for all rights, powers, liabilities, obligations, restrictions, remedies and procedures created or provided for by the Withdrawal Agreement (other than by Part 4) to be directly recognised and enforced in domestic law. The EUWAB provisions on citizens' rights in the earlier (October) and revised (December) Bills are almost identical, and would broadly implement the agreements set out in Theresa May's 2018 Withdrawal Agreement.<sup>28</sup> The main change to the revised (December) Bill is that the proposed Independent Monitoring Authority (IMA), which would be responsible for ensuring that citizens' rights are protected and implemented, would be able to delegate some of its functions to another public body.<sup>29</sup>

At the time of publication of the EUWAB, there was also more clarity around the functioning of the EU Settlement Scheme<sup>30</sup>, which opened in March 2019 to enable EU nationals to apply for settled status (a type of indefinite leave to remain) or pre-settled (temporary) status. The UK Government's Security Minister confirmed that if EU nationals failed to apply for status through the Settlement Scheme by the end of the transition period (31 December 2020), "the immigration rules will apply."<sup>31</sup> When asked if this meant the possibility of the deportation of EU nationals who failed to register, the Minister replied "theoretically, yes." However, following a resolution in the European Parliament in January 2020 expressing concerns about EU and UK citizens' rights, the UK Government said it will not 'automatically deport' EU nationals if they fail to apply for the Scheme on time.<sup>32</sup>

The Home Affairs Select Committee has expressed concern that the EU Settlement Scheme risks a repeat of the Windrush scandal, whereby those EU nationals who may be unaware of the scheme or find it difficult to apply by the deadline, may risk losing their right to live in the UK.<sup>33</sup> This may include, for instance, elderly people (especially those with cognitive impairments), disabled people (including mental ill-health), children (especially children in care whose guardians are unaware of the need to register), homeless people and gypsies/travellers (who may lack proof of residence), migrants (who may not have English literacy) and people on low incomes without the means to access the online form.<sup>34</sup> In short, EU nationals who are most at risk of deportation include equalities groups.

A report by the think-tank British Future in January 2019 found that with just a 5% rejection rate for the Settlement Scheme, this would leave as many as 175,000 EU nationals living in the UK undocumented and at risk of deportation by 2021.<sup>35</sup>

## **Employment rights**

The revised (December 2019) EUWAB removes provisions for workers' rights that were contained in the earlier (October 2019) bill.<sup>36</sup> These earlier provisions would have required a UK Minister in charge of a Bill related to workers' rights to make a statement as to whether that Bill reduces workers' rights as compared to what those rights were at the end of the implementation period. There were corresponding consultation and reporting requirements, and in situations where new EU legislation in relation to workers' rights was made following the implementation period, a minister would be required to make a statement before Parliament on whether or not equivalent workers' rights exist in domestic law. The October Bill listed the EU directives which are relevant for determining workers' retained EU rights for the purposes of the duty to make a statement under paragraph 1.

The new (December) EUWAB removes this provision to ensure transparency over any future changes or divergence in the UK from workers' rights provided by EU law.<sup>37</sup> The UK Government has stated that workers' rights will be addressed in a separate bill.

## **Family reunion rights for asylum-seeking children**

The revised (December 2019) EUWAB includes a new clause that removes an existing obligation set out in the EU (Withdrawal) Act 2018 for UK Ministers to seek to negotiate an agreement with the EU to make provision for arrangements between the UK and the EU for unaccompanied children seeking asylum. The agreement that was to be negotiated was that (i) in circumstances where such a child makes an application to a member State and it is in the child's best interests, the child may come to the UK to join a relative who is either lawfully resident in the UK or whose asylum request has not yet been decided, and (ii) in circumstances where such a child is in the UK and makes an application to go to a member State, that child may go to a member State in equivalent circumstances. Instead, the December EUWAB places UK Ministers under an obligation to make a statement of policy before Parliament about any future arrangements between the UK and the EU about unaccompanied children seeking asylum in the circumstances outlined above.

Lord Dubs, who amended the 2016 Immigration Act to offer unaccompanied refugee children from Europe safe passage to the UK amidst the European migrant crisis in 2016, has described the decision to remove the obligation to negotiate appropriate agreements with the EU on unifying families and supporting extremely vulnerable children as a 'retrograde step' that could leave hundreds of vulnerable children with family relations in the UK stranded alone in Europe.<sup>38</sup>

## Scottish Government analysis

The Scottish Government (SG) published an assessment of the (October 2019) Withdrawal Agreement, to determine its impact on Scotland.<sup>39</sup> In the foreword, the Cabinet Secretary for Government Business and Constitutional Relations criticised the EUWAB for implying:

“a weakening of previous commitments on workers’ rights and environmental standards, along with other level playing field policies. Not only will this undermine the interests of our citizens, it will greatly weaken the future trade and economic relationship to which our EU partners are likely to agree.”<sup>40</sup>

The SG analysis also offered a comparison of the revised Withdrawal Agreement with the Withdrawal Agreement negotiated by Theresa May in 2018, commenting that:

“The overall impact has changed little between this ‘deal’ and the one secured by the previous Prime Minister, but the changes that have been made confirm that the UK Government is seeking a much more distant, or looser, relationship with the EU than one which would be consistent with a “soft” Brexit, for example if the UK was to remain in the Single Market and Customs Union. Those changes reinforce and lay bare that Scotland, and the UK, are being faced with a hard Brexit deal that will hit jobs and living standards.”<sup>41</sup>

In its report, the SG criticised the Withdrawal Agreement for the potentially adverse impacts that leaving the EU Single Market and Customs Union will have on Scotland’s economy, and for the adverse demographic impact that ending free movement will have on Scotland’s population, which are also forecasted to negatively affect the labour market and key sectors employing EU nationals, such as social care. Furthermore, the SG criticised the Withdrawal Agreement for failing to include a binding commitment to comply with the European Convention on Human Rights (ECHR), instead only stating its commitment to ‘respect’ the ECHR.<sup>42</sup> The SG interprets this lack of compliance as a potential weakening of human rights.<sup>43</sup> In light of these impacts, and the lack of a democratic mandate in Scotland for withdrawal from the EU, the Scottish Government lodged a legislative consent memorandum with the Scottish Parliament recommending that the Parliament should not give its legislative consent to the Bill implementing the Withdrawal Agreement. On 8 January 2020 the Scottish Parliament resolved, by 92 votes to 29, to refuse to give its consent to the EUWAB. However, the Secretary of State for Scotland, Alister Jack MP, said that the Brexit legislation would proceed regardless.<sup>44</sup>

The Scottish Government has also noted that, “Amidst the widespread discussion of process and parliamentary activity, there has been little focus on the substance of the implications of the agreement reached by the UK Government.”<sup>45</sup>

## Brexit and Impact Assessments

Ordinarily, the UK Government publishes detailed impact assessments (IAs)<sup>46</sup> for government policies, to assess the potential impact of any new legislation on – for instance – economic growth, public finances, public services and other areas of concern. The UK Government also publishes equality impact assessments (EIA) to assess any consequences of policies for particular social groups, in particular, equalities groups.

However, the UK Government's impact assessments of Brexit have been overwhelmingly economic in nature, and have lacked an in-depth sector-by-sector analysis of social impacts. For instance, with regard to the EU (Withdrawal) Act 2018 – which was introduced by Theresa May in July 2017 and passed by the UK Parliament in June 2018 – there was no detailed analysis of the different ways in which different groups of people who are protected by the Equality Act may be affected by the UK's withdrawal from the EU. Instead, the UK Government published a generic 'Equality Analysis'<sup>47</sup> to accompany the then EU (Withdrawal) Bill, which refers more broadly to how equalities legislation will be preserved after Brexit. Furthermore, this analysis did not explore the socio-economic impact of Brexit on equality.

For instance, the Equality Analysis states that:

“there may potentially be impacts, both adverse and positive, on those with protected characteristics as defined by the Equality Act 2010 when the UK leaves the EU. We do not however consider that anything in the Bill will prevent the UK, on EU exit, from continuing to protect and advance equalities when we cease to be EU members.”

However, the Equality Analysis does not include a detailed impact assessment on what these 'adverse and positive' impacts will be, and which groups of people may be affected.

Furthermore, the EU (Withdrawal Agreement) Bill introduced by the UK Government in October 2019 was not accompanied by a separate Equality Impact Assessment or 'Equality Analysis'. However, the Bill was accompanied by an Impact Assessment (IA) that contained two paragraphs on 'equalities'.<sup>48</sup> The 2019 IA stated – in contrast to the previous Equalities Analysis (July 2017) which acknowledged the potential for adverse effects – that:

“These provisions have no undue effect on particular racial groups, income groups, gender groups, age groups, people with disabilities, or people with particular religious views. It is not envisaged that any equality issues will arise as a result of these provisions.”<sup>49</sup>

The impartial UK Regulatory Policy Committee (RPC) made the “exceptional decision” not to rate the Impact Assessment<sup>50</sup> produced alongside the Withdrawal Agreement Bill introduced on 21 October 2019.<sup>51</sup>

The RPC stated that impact assessments are not validated when:

“There are significant concerns over the quality of the evidence and analysis; calculations or data may be missing or not verifiable. There is insufficient analysis and/or the RPC believes that the EANDCB figure is inaccurate.”<sup>52</sup>

In relation to equalities, as part of that review, the RPC stated (p14) that:

“...the evidence in support of the Department’s assessment is somewhat limited. This is particularly the case for the Equality Assessment, which could helpfully assess the impacts on citizens in more depth and for the Rural-proofing assessment, which is short of available detail given the rural nature of the area and the number of rural businesses affected by the new Protocol.”<sup>53</sup>

The UK Regulatory Policy Committee was also critical of the limited consideration given to the potential impacts of the October 2019 EUWAB on different groups on society. In its analysis of the EUWAB, the RPC stated that:

“The present IA presents a somewhat limited description of the impacts of the Bill on society as a whole, and does not discuss the impacts on those civil society organisations that might be expected to support citizens affected by the impacts of the Bill. Future impact assessments in support of secondary and subsequent legislation should provide clearer assessments on both points...”<sup>54</sup>

Aside from not providing a detailed social or equalities impact of the EU (Withdrawal Agreement) Bill, the UK Government has also been criticised for failing to provide (or if it exists, make public) an economic impact assessment of the UK’s future relationship with the EU in line with the proposed Political Declaration, which accompanied the (October 2019) Withdrawal Agreement<sup>55</sup>.

The revised EUWAB published on 19 December 2019 did not contain a new or revised Impact Assessment, despite the changes it makes in terms of removing provisions regarding workers’ rights, parliamentary scrutiny and provisions connected to child refugees compared to the earlier (October) version of the bill. Instead, the IA issued for the previous October Bill was deemed to be sufficient.

A UK government spokesperson was reported as stating:

“The Government will not be publishing any additional assessment of this bill beyond the assessment published in October. We will keep parliament updated throughout the next stage of negotiations.”<sup>56</sup>

The RPC has issued a statement drawing attention to the fact that there had been no updated impact assessment for the revised Withdrawal Agreement Bill introduced on 19 December 2019, despite the fact that the Bill “has been amended and contains several new clauses.”<sup>57</sup> The RPC said that they would “review the

existing IA, or any revised IA we receive from the Department, alongside the new Bill and publish a further opinion as early as possible in the new year”.

## **A Gap in the Analysis**

As a result of the UK Government’s decision not to publish an impact assessment examining the potential impacts on society, in particular equalities groups, as a result of the UK’s withdrawal from the EU, it is difficult to assess the full extent of the implications of Brexit for social groups in Scotland and the UK.

This point was made by the Women’s Budget Group (WBG) following the publication of the EU (Withdrawal Agreement) Bill in October 2019, in which the short statement on equalities contained in the Bill was seen by the WBG to “not equate to a meaningful assessment of the impact of Brexit on women or any other equalities group.”<sup>58</sup> This point was also made by the charity Poverty Alliance, which criticised the UK Government for failing to disclose the impact of Brexit on poverty, inequality and people on low incomes in the UK.<sup>59</sup> The Deputy Director of the Runnymede Trust has also criticised the UK Government for the lack of impact assessments “on what a No Deal will mean for different sectors of the economy and groups of people with protected characteristics.”<sup>60</sup>

The UK Government’s decision not to produce a full equalities impact assessment of Brexit, including the potential legal and socioeconomic effects on different groups of people in the UK, leaves a significant gap in our understanding of the implications of Brexit.

## **The contribution of this report**

This report seeks to begin to fill this gap, by drawing together research conducted by civil society organisations, think tanks, community organisations and academics, and identifying further general and specific impacts of Brexit; to paint a picture of how Brexit (in its different guises) is likely to affect the lives of people.

This report is by no means comprehensive and it does not claim to be definitive; instead it should be considered as a starting point for further research that explores how specific equalities groups will be affected by different types of Brexit, as well as policy analysis and recommendations for how to mitigate these impacts.

Furthermore, despite the political changes over the past few months – in terms of the composition of the UK Government and Parliament, and the revision of the EU (Withdrawal Agreement) Bill – this report seeks to take a broader view of social impacts of Brexit on individuals and communities in Scotland and the UK, viewed through the prism of three Brexit scenarios: a hard Brexit, a softer Brexit, and a no-trade deal Brexit.

Given that the Conservative Party has obtained a majority in the House of Commons, it is now more likely that Prime Minister Boris Johnson’s preferred outcome – a hard Brexit, along the lines implemented by his government through the EUWAB – or a no-trade deal Brexit, where the UK leaves the EU at the end of

the transition period without agreeing a future relationship with the EU – will come to fruition.

In order to conduct this analysis, the report examines the deal agreed by the UK government with the EU in October 2019, and the implications of the revised (December) EU (Withdrawal Agreement) Bill for social and equality groups.

# European Union (EU) Social Rights

The European Union (EU) has advanced social policies that affect the lives of every UK citizen. While much of the focus of European integration in the post-war decades was on economic integration – culminating in the creation of a Single Market – over the past few decades the EU has accelerated its work in guaranteeing the social rights of all EU citizens.<sup>61</sup>

The EU's social protections include rights to:

- equality and protection against discrimination on the basis of sex, race, religion, age, disability and sexual orientation
- equal opportunities and access to the labour market (including equal treatment for men and women at work, pregnancy, maternity and parental leave)
- fair working conditions and health and safety standards in the workplace
- social protection and inclusion funding and provisions
- consumer protection
- free movement and equal treatment in social security systems
- reciprocal access to healthcare and transferable pension rights
- reciprocal access to higher education through Erasmus and Socrates schemes

In 2017, the European Union consolidated its commitment to social rights and social inclusion by creating a 'European Pillar of Social Rights'.<sup>62</sup> This pillar is based on effective social rights for citizens based on key principles. According to President Juncker,

“Today we commit ourselves to a set of 20 principles and rights. From the right to fair wages to the right to health care; from lifelong learning, a better work-life balance and gender equality to minimum income: with the European Pillar of Social Rights, the EU stands up for the rights of its citizens in a fast-changing world.”<sup>63</sup>

The EU's social dimension involves the development of policies, actions, funding and laws pertaining to the sphere of social policy, including welfare, employment and equalities. Below are some examples of the EU's activities in guaranteeing social protections.

## EU Primary Legislation

One of the most significant pieces of EU legislation, the European Charter of Fundamental Rights, brings together all the personal, civic, political, economic and social rights enjoyed by people within the EU.<sup>64</sup> The Charter is a powerful 'living instrument' for protecting rights, which is regularly updated to create new rights that reflect social change, including a range of rights to equality.<sup>65</sup> For example, the Charter of Fundamental Rights includes freestanding rights to non-discrimination, the right to human dignity, and the protection of a child's best interests (which do

not have direct equivalents in UK human rights law).<sup>66</sup> However, under the European Union (Withdrawal) Act 2018, the Charter of Fundamental Rights will not be retained in UK law after the UK leaves the European Union. The UK will also be entitled to amend the Equality Act (2010) without regard to EU law after Brexit.<sup>67</sup>

## **EU Secondary Legislation**

The EU has passed many directives and regulations (secondary legislation that derives from the principles of primary legislation set out in EU treaties) that protect the social and employment rights of EU citizens.<sup>68</sup> These include: the Part-Time Worker's Directive, the Pregnant Workers' Directive, the Agency Worker's Directive, the Fixed-term Work Directive, the Working Time Directive and the Work-Life Balance Directive, which guarantee non-discrimination in the labour market and specific rights and protections. While the EU (Withdrawal) Act 2018 provides for the retention of most EU law, it would be open to UK Ministers to take forward primary legislation that could fall beneath the standards set by these directives. Under the EU (Withdrawal) Act 2018, as due to be amended by the EU (Withdrawal Agreement) Bill, UK Ministers may make regulations to provide that specified courts or tribunals (beyond the Supreme Court and High Court of Justiciary) may not be bound by retained EU case law in certain circumstances when interpreting retained EU law. The Scottish Government has concerns that this power could be used to facilitate a lowering of standards and protections, for example in relation to workers' rights.<sup>69</sup> In addition, the UK Government will not retain the Francovich principle of state liability.<sup>70</sup>

## **Court of Justice of the European Union (CJEU) case law**

Rulings of the European Court of Justice have created additional rights and protections for EU citizens to non-discrimination and equal treatment. For instance, in *Coleman v Attridge Law* (2008) the ECJ created a new type of 'associative discrimination' based on the experience of Ms Coleman, who claimed that her employer discriminated against her because she was the primary carer for her disabled son (previously, the law only protected disabled people, not people who were associated with disabled people).<sup>71</sup> This type of discrimination was included in the UK's Equality Act (2010). However, the EU (Withdrawal) Act 2018 states that courts in the UK will not be bound by any principles laid down or decisions made by of EU courts after exit day, though they can have 'regard' to decisions of the CJEU.<sup>72</sup>

## **EU Funding**

The Treaty of Rome established a 'European Social Fund' (ESF) that aims to reduce social inequality, improve employment and education opportunities (especially for disadvantaged groups) and promote equality in the labour market.<sup>73</sup> The European Regional Development Fund (ERDF) also seeks to combat regional and social disparities. ESF and ERDF funding has supported the work of thousands of civil society organisations across the EU in seeking to create more equal, healthier and inclusive societies. For instance, Scotland benefitted from €465

million from the ESF and €476 million from the ERDF from 2014-20.<sup>74</sup> However, after Brexit, the UK will not be part of the European Social and Investment Funds, and will not pay into, or receive funding, from the ESF and ERDF (which is worth £2.1 billion per year to the UK).<sup>75</sup> In addition, people living in remote and rural areas of Scotland benefit from the EU co-funded LEADER programme, which provides support to rural communities for community-led rural development.<sup>76</sup> As a way of replacing the EU funding that the UK receives, the UK Government has pledged to create a 'Shared Prosperity Fund' to 'reduce inequalities between communities'.<sup>77</sup> However, the UK Government is yet to publish details of how this proposed fund would operate and how much funding would be available. Finally, UK researchers have enjoyed access to the EU's Horizon 2020 research and innovation programme, which has helped strengthen the evidence base on equalities issues, in particular, gender equality.<sup>78</sup> It is currently unclear whether the UK will have access to Horizon 2020 as a third country after Brexit.<sup>79</sup>

## **European Citizenship**

The European Union has developed the world's most advanced 'supranational' citizenship project. The EU first became involved in developing citizenship practices in 1957, though it was not until the Treaty of Maastricht (1992) that a citizenship of the European Union was formally established. The Treaty granted EU citizenship to all nationals of member states, which was conferred as a personal status in the Amsterdam Treaty.<sup>80</sup> Legal rights include:

- the right to move freely around Europe to live, work, study and retire;
- the right to trade and transport goods, services and capital through EU borders;
- the right to vote and stand in local and European elections where they live;
- the right to petition the European Parliament;
- the right to complain to the European Ombudsman;
- the right to have consular protection from another EU member state whilst abroad;
- the right to enjoy legal protections of EU law, including the Charter of Fundamental Rights of the European Union (i.e. equal pay, protection from discrimination).

As it stands, citizens of EU member states have rights to come to the UK to live and work by virtue of their European citizenship rights, and citizens of the UK have reciprocal rights in EU law to live and work in any country in the EU<sup>81</sup>. Following the UK's departure from the EU, UK citizens will lose their European citizenship rights.

## **Other EU social benefits**

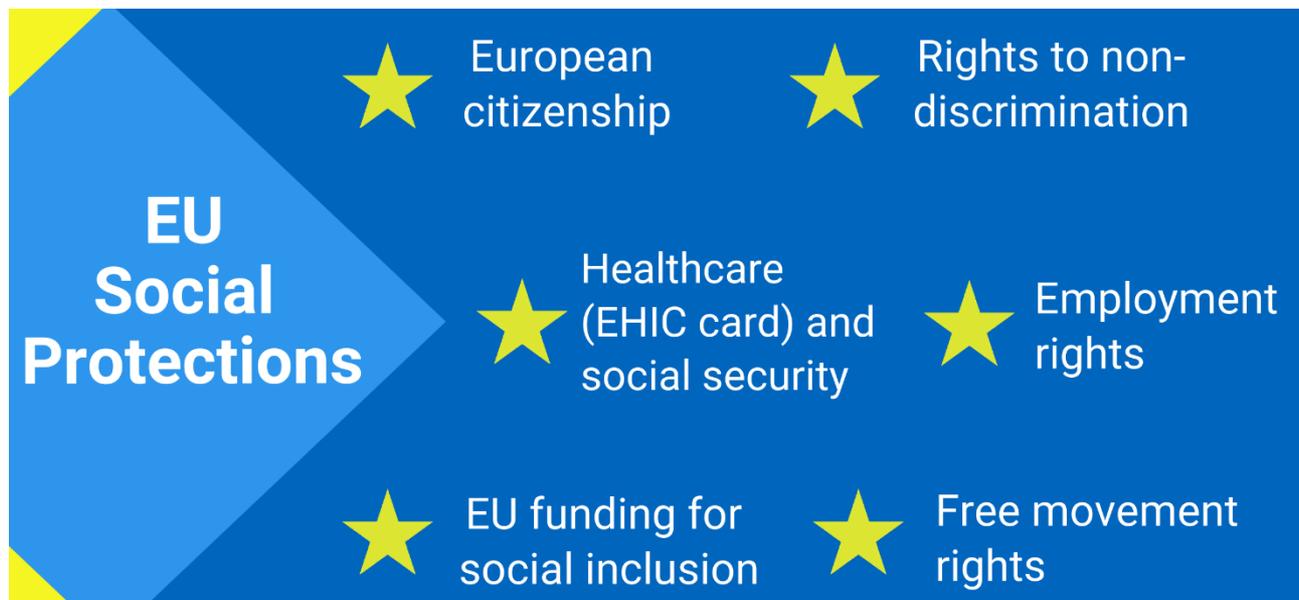
The EU has also developed other social benefits for EU citizens. These include the creation of a single area of health treatments,<sup>82</sup> which allows citizens to travel to another Member State in the EU with the intention of receiving health treatments and be reimbursed by their own health insurance scheme, and a European Health

Insurance Card (EHIC) that enables them to access free or reduced healthcare in other EU Member States. Disabled people benefit from the EU Blue Card Badge scheme for parking<sup>83</sup>. Pensioners benefit from being able to transfer their pensions to another EU Member State.<sup>84</sup> Students benefit from the right to equal treatment and the same conditions in other EU Member States in respect of accessing higher education, the fees they pay, and grants they are eligible for, while their qualifications are subject to mutual recognition.<sup>85</sup> Following Brexit, it is likely that UK citizens will lose these social rights to equal treatment in other EU countries.

## What does the EU do for me?

As we have seen above, UK citizens benefit from a range of EU social rights and provisions as a result of EU primary legislation, secondary legislation, CJEU case law, EU funding, European citizenship and other social rights and regulations.

These rights are summarised in the infographic below.



As explained above, many of these social rights and protections which UK citizens currently enjoy are potentially at risk when the UK leaves the European Union. However, the extent to which UK citizens are at risk of losing their EU-derived social and equalities rights depends very much on what form Brexit and a future UK-EU relationship takes, and the extent to which the UK adheres to these rights. This is the subject of the next few chapters of this report.

# Brexit Impacts

This analysis suggests that there are likely to be both specific and general ways in which Brexit will impact individuals and communities that may be classified as equalities groups.

Please note that this scenario analysis does not include an analysis of all of the possible permutations of future UK-EU relations (such as EEA 'Norway-style' membership, 'Swiss-style' EFTA membership or a 'Turkish-style' Customs Union) as this lies outwith the scope of this report.

## Specific Impacts

On one hand, Brexit will likely have specific effects on each group (and indeed, across groups, given that equalities groups are by no means homogenous) depending on their specific equalities-related rights, economic and political power, and resilience to impacts.

So, for instance, some equalities groups may be more affected by a loss of EU funding while others are more affected by loss of specific EU rights relating to their personal characteristics. These specific potential impacts of Brexit on equalities groups – including impacts on legal rights, public services and funding, and employment, housing and spending – are explored in this report in a long-list of impacts on 20 equalities groups, and a more detailed exploration of impacts in three case studies.

## General Impacts

On the other hand, there are also some general or shared impacts that will likely be experienced across all (or most) equalities groups.

These impacts are largely socio-economic in nature. This is because equalities groups tend to comprise those people who are the most marginalised, or have the least political and economic power, in society. For instance, disabled people, minority ethnic communities, refugees and asylum seekers, and women, tend to be at a higher risk of poverty and insecure employment or unemployment than average, which in turn suggests that they are more reliant on public services and anti-discrimination law. Given that 37% of households in Scotland (or 890,000 households) are considered to be 'financially vulnerable'<sup>86</sup>, any negative impact on their household finances resulting from smaller UK economic growth – which the Treasury has forecast in relation to Brexit<sup>87</sup> – could put further pressures on struggling households.

There are also likely to be a number of general legal impacts of Brexit on the EU-derived social rights of UK citizens, and the specific EU-derived rights of equalities groups, owing to the UK's decision to leave the EU's legal framework.

The next section of this report some general impacts of the Brexit process on equalities groups to date, and potential general impacts on equalities after the UK leaves the EU, before moving on to specific impacts on particular groups of people.

# Brexit Impacts since the 2016 referendum

Since the June 2016 referendum on the UK's membership of the EU, there have been changes to the economy, labour market, community relations, legislative timetable and the rights of EU nationals living in the UK, which have been directly caused/affected by Brexit. These changes have had a disproportionate impact on equalities groups.

## (1) Economic Impacts

First, increased uncertainty around Brexit has led to slower economic growth, which has disproportionately affected low-income groups. According to the Guardian's monthly analysis of key economic indicators affected by the Brexit process for August 2019<sup>88</sup>, the pound has fallen 18% below its level before the EU referendum in 2016, UK inflation has risen, the manufacturing and construction sectors remain in contraction, unemployment has increased and house prices has fallen for the first time since 2009. The Fraser of Allander Institute at the University of Strathclyde published a report in October 2019 which estimates that the "impact of Brexit uncertainty has cost the Scottish economy around £3 billion" relative to what it would have been otherwise.<sup>89</sup> Similarly, the Resolution Foundation has published a report suggesting there has been a drop in household living standards since the EU referendum.<sup>90</sup> It is likely that the increased cost of living will have had a disproportionate effect on low-income households, into which many equalities groups fall, since these generally spend a larger share of their income on daily essentials such as food, bills and housing.

## (2) Community Relations Impacts

Hate crime and prejudice threaten community cohesion and have a corrosive impact on Scotland's communities as well as broader society. Hate crime can be verbal or physical, and it can have damaging effects on the victims, their families and communities. Current hate crime legislation in Scotland allows any existing offence to be aggravated by prejudice in respect of one or more of the protected characteristics of race, religion, disability, sexual orientation and transgender identity.

Although there has been a marked rise in recorded hate crime since the 2016 EU referendum in England and Wales (including that reported by Welsh police forces<sup>91</sup>), such a rise has not been reported in Scotland or Northern Ireland.<sup>92</sup> The charity Show Racism the Red Card has argued that Brexit has been a 'major influence' in the rise of racism and race-related hate crime in England and Wales since June 2016.<sup>93</sup> In particular, there was a spike in hate crime in the three months directly after the referendum, with the majority of police forces in England and Wales reporting record levels of hate crime being reported to them<sup>94</sup> and the Metropolitan Police predicted a similar spike in advance of the March 2019 Brexit date.<sup>95</sup> However, in Scotland, according to statistics from the Crown Office and Procurator Fiscal Service, the number of racist crimes reported to them has fallen

by more than 10% between 2017-18 and 2018-19 to the lowest number since consistent statistics became available in 2003-04.<sup>96</sup> The Scottish Government has also published a recent report suggesting that the volume of hate crime recorded by the police in Scotland has been relatively stable in recent years.<sup>97</sup>

However, it should be noted that hate crimes are often not reported to the police. According to Police Scotland Chief Superintendent Barry McEwan, while there has not been a spike in the reportage of hate crimes in Scotland since Brexit, “we acknowledge that often these incidents go unreported.”<sup>98</sup> Some academic research suggests that racism and discrimination has increased amongst certain migrant communities in Scotland since the 2016 referendum. A survey led by Dr Daniela Sime of the University of Strathclyde reveals that 77% of young Eastern European school pupils aged 12-18 living in Scotland and England had experienced racism and xenophobic attacks, and almost half (49%) had seen ‘more racism’ since the Brexit referendum.<sup>99</sup> These experiences ranged from ‘everyday racism’ such as name-calling and ‘jokes’ about accents, looks or country of origin, to physical attacks on young people, their family members and damage to their homes or property. In her evidence to the Scottish Parliament, Dr Sime said,

“We were quite interested to see whether Scotland is different from the rest of the UK, but we had no statistically significant data to suggest that there is a difference.”<sup>100</sup>

A UK-wide research investigation based on police records from England, Wales, Scotland and Northern Ireland by the National Society for the Prevention of Cruelty to Children (NSPCC) found that hate crimes against children had reached a three-year high in May 2019, with children being told to ‘go back to their own country’.<sup>101</sup> While there has been an overall increase, this data was not disaggregated on a country-by-country basis, so it is difficult to account for any variation across the UK. Furthermore, a recent study by Opinium on racism across the UK found that 71% of people from ethnic minorities now report racial discrimination, compared with 58% before the EU referendum in 2016, with online racism more than doubling since the referendum.<sup>102</sup> The poll was weighted to be nationally representative, however, the results have not been disaggregated on a country-by-country basis.

Evidence shows that most people do not experience harassment, however a sizeable number do and of those, protected characteristics are often seen as motivating factors. The Scottish Household Survey (2018) found that 8% of adults reported that they had experienced discrimination, and 6% had experienced harassment in Scotland at some point over the last 12 months.<sup>103</sup> Groups more likely than other to report experiencing discrimination or harassment include minority ethnic people, people from LGBTIA+ communities, and people belonging to a religion other than Christianity. The most common reason cited as a motivating factor was the respondent’s nationality.

### **(3) Labour Market Impacts – Skills Shortages**

Third, the UK's Brexit-related immigration strategy (including the decision to end freedom of movement, the requirement for EU nationals to apply for settlement, and proposals to restrict EU migration in future) have affected EU migration levels, which has in turn affected large sections of the labour market by creating skills shortages. There has been a significant drop in the number of EU nationals coming to the UK (which is currently at a six-year low), and an increase in EU8 (Central and Eastern European) nationals leaving the UK.<sup>104</sup> These trends have adversely affected sectors of the economy that employ large numbers of EU nationals, such as agriculture, hospitality and construction. In particular, EU nationals leaving the UK has compounded a recruitment crisis in the NHS and the social care sector<sup>105</sup>, adversely affecting people use these services. Equalities groups are over-represented amongst these health and social care service users<sup>106</sup>, affecting in particular, disabled people, older people, people with long-term illnesses, pregnant women and others.

### **(4) Representational Impacts**

Fourth, several groups representing equalities organisations (including disabled people's organisations, minority ethnic groups, and women's groups) have complained about a lack of representation of their needs, interests and voices within ongoing Brexit debates and negotiations. For instance, the Women's Budget Group, Race on the Agenda, Women for Europe, the Runnymede Trust and Inclusion Scotland have expressed discontent that equalities issues have been insufficiently accounted for in the UK's plans to leave the EU, and that the needs and wellbeing of equalities groups have not been prioritised in the Brexit negotiations.<sup>107</sup> Equalities groups are particularly concerned about the lack of equality impact assessments for different Brexit scenarios, and the lack of diversity in the make-up of UK negotiating teams.<sup>108</sup> This indicates a sense a political exclusion among equalities groups.

### **(5) Legislative Impacts**

Fifth, several equalities groups have complained that the lack of legislative attention given to non-Brexit social policy proposals has had a negative impact to date on equalities groups. For instance, the charity Disability Rights UK stated that government action on disability has 'stalled' since the 2016 EU referendum, and that there has been insufficient attention on policy change that could improve the rights of disabled people due to the dominance of Brexit over the UK's legislative and policy-making processes.<sup>109</sup> This feeling was reiterated by the CEO of the Joseph Rowntree Foundation, Campbell Robb, who stated: "There is a danger that Brexit could suck all of the oxygen out of attempts to implement a sweeping programme of social and economic reform that has been badly needed at home."<sup>110</sup>

## **(6) Immigration Uncertainty**

Sixth, since the EU referendum in June 2016, EU nationals have experienced a high degree of uncertainty regarding their rights to continue living in the UK. The EU Settlement Scheme<sup>111</sup>, introduced in March 2019, has provided a degree of assurance as to what their rights will be post-Brexit. However, there has been a high number of cases of EU nationals being rejected for Settled Status and being offered pre-Settled Status (which is less secure).<sup>112</sup> Furthermore, there are concerns that vulnerable EU nationals – such as care-experienced children and older EU nationals with cognitive impairments – may be unaware of the need to apply to the Settlement Scheme and may lose their rights to reside.<sup>113</sup>

## **(7) Mental Health and Wellbeing**

Seventh, mental health charities have reported a link between Brexit and increased stress and anxiety amongst the UK population. In 2019, the Mental Health Foundation (MHF) undertook a survey that explored this relationship in more detail.<sup>114</sup> It found that almost one in five people felt Brexit had caused them ‘high levels of stress’ and over one in ten people reported that Brexit had caused them problems with sleeping in the last year. Furthermore, the MHF emphasised that Brexit-related stress did not impact everyone equally; instead, it has a disproportionate effect on equalities groups, including people from a migrant background (including EU nationals), ethnic and religious minorities, people living with long-term health conditions and people with mental health disabilities. This analysis confirms other research that demonstrates that equalities groups – due to the discrimination and structural barriers that they face – are more vulnerable to mental ill-health.<sup>115</sup>

# Potential Impacts of a ‘hard’ Brexit

Having explored the impacts of the Brexit process on equalities groups to date, let us now consider the potential impacts on equalities groups after the UK leaves the EU.

Our first scenario is based around what may happen under a ‘hard’ Brexit, based on the revised Withdrawal Agreement and Political Declaration.<sup>116</sup> This scenario is based on the EUWAB passing unamended, and the expectation that the UK Government will follow the revised negotiated Political Declaration (with no ‘softening’ of the UK Government’s position to further align with EU standards and laws)<sup>117</sup> when negotiating a future UK-EU trade deal.

## (1) Loss of rights

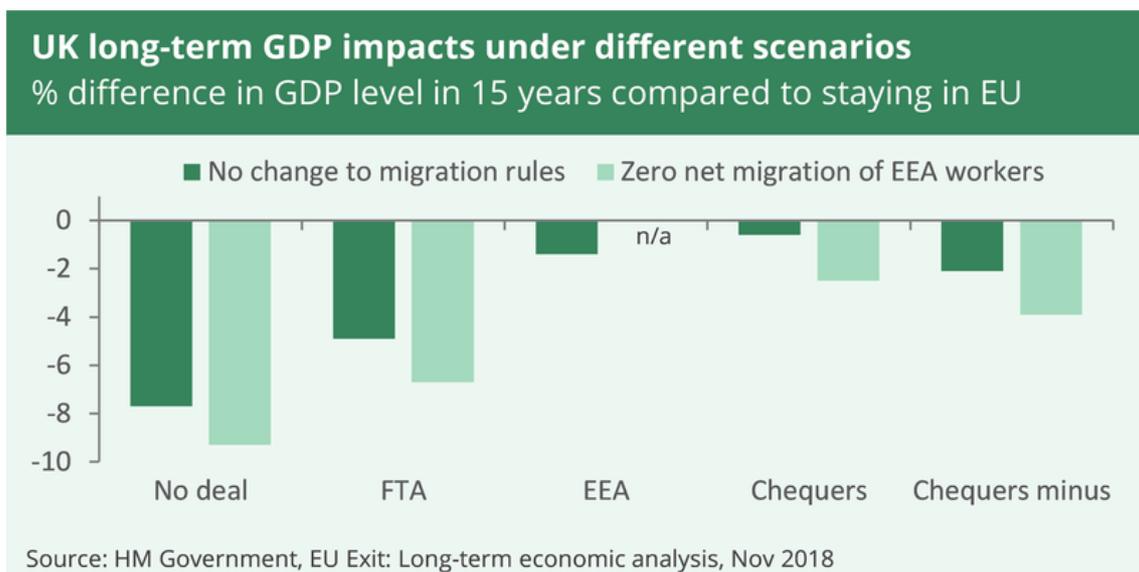
While the UK Government has signalled its intention to uphold equalities legislation that has derived from EU law, the UK’s decision to leave the EU makes it easier to remove specific equalities rights and protections in the future. In particular, rights relating to secondary legislation may be more easily reduced or removed (as will be considered below with regard to specific groups).<sup>118</sup> This is now considered to be more likely given the revision to the (December 2019) EUWAB to remove provisions safeguarding workers’ rights which placed obligations on UK Ministers to make statements to Parliament to ensure transparency over any future changes or divergence in the UK from workers’ rights provided for by EU law.

In addition, a new clause provides UK Ministers with the ability to legislate to enable specified lower courts and tribunals (and not just the Supreme Court or the High Court of Justiciary in certain circumstances) to not be bound by retained EU case law in certain circumstances.<sup>119</sup> Furthermore, upon leaving the EU, the UK may choose not to align with any of the EU’s future provisions for equalities groups, leaving some EU-derived rights ‘frozen in time’ in the UK. There are also likely to be some general legal impacts on equalities groups as a result of Brexit. For instance, the loss of EU citizenship – including freedom of movement – will affect everyone in the UK, though it will affect some groups (such as EU migrants, UK pensioners living in the EU, and disabled people who rely on social security coordination across EU countries) more than others.

## (2) Economy and Public Services

The Withdrawal Agreement and Political Declaration set out a framework for a looser UK economic relationship with the EU, which ends membership of the Single Market and Customs Union (and the frictionless trade that this entails) and seeks to negotiate a free trade agreement (FTA) with the European Union. The majority of reports that have sought to forecast the potential economic impacts of Brexit – including the UK Government’s leaked study into the economic impacts of Brexit by 2033 – have concluded that there will be a relative long-term negative impact,

including a reduction in economic growth and a fall in GDP.<sup>120</sup> These trends are captured in the infographic produced by the UK Government below.



As can be seen from the UK Government’s own estimates in this figure, an FTA-based future relationship between the UK and EU will have a negative impact on GDP, second only to a no-deal (WTO-rules) Brexit in severity. The knock-on effects of any economic downturn resulting from a hard Brexit will be felt by equalities groups directly and indirectly. Directly, a slump in economic growth and falling GDP will likely increase job losses and push up the costs of living. Indirectly, an economic downturn may lead to reductions in public spending. Any cuts in public services and benefits will likely hit those groups hardest who are most reliant on them, including low-income groups (which several equalities groups fall under). Furthermore, increases in food prices will likely affect the poorest households, as these households spend a higher percentage of their income on food and daily essentials than wealthier households.<sup>121</sup> As many equalities groups fall into a lower-than-average socio-economic status, there are therefore likely to be general socio-economic effects across many equalities groups. In contrast, people who are wealthier and spend a smaller share of their income on daily essentials, and who have more assets and capital (allowing them to purchase private services) are less likely to be affected by public spending cuts.

### (3) Continued impact on community relations

Based on data recorded in England and Wales, police have predicted a rise in hate crimes around the time of ‘Brexit day’. Prior to the UK’s initial departure date (29 March 2019), Scotland Yard’s deputy head of hate crime, said: “If we look at what happened in the Brexit referendum then come March we would expect some kind of response at that time in the attacks that take place. We will do what we can to prevent an upturn.”<sup>122</sup> While the police in Scotland did not record an increase in reported hate crimes after the Brexit referendum<sup>123</sup>, it is possible that there are UK-wide effects on community relations in Scotland following the UK’s departure from the EU on 31 January 2020, especially given the rise in unreported racism against Eastern European children in Scotland and England since Brexit, according to a University of Strathclyde study.<sup>124</sup> Furthermore, according to a UK-wide study from

professional services firm Equality Group, more than half of minority ethnic Britons expect that Brexit will negatively change society's attitudes toward race, and a majority of minority ethnic Britons fear that the implications of Brexit will stifle their future career prospects.<sup>125</sup> Of the Scottish respondents included in this survey (including minority ethnic and non-minority ethnic people) 32% were mindful or concerned about the impact of Brexit on professional and societal culture.

#### **(4) Immigration and labour market**

So far, the UK Government's White Paper on Immigration (2018),<sup>126</sup> which may or may not be supported by the current government led by Prime Minister Johnson, will likely lead to reduced numbers of EU nationals coming to the UK. This is because the UK Government intends to end free movement after Brexit (or end of the transition period) and plans to require EU migrants to be subject to the same immigration controls as all other international (third-country) migrants. The UK Government has stated their intention to re-shape the current immigration system along the lines of an 'Australian-style' points-based immigration system (to 'go live' on 1 January 2021), which all EU migrants will need to apply through after the transition Period ends (currently 31 December 2020). They will thus be subject to the same minimum salary thresholds (currently £30,000 or the 25<sup>th</sup> percentile, whichever is higher) and may even require a job offer

#### **(5) Potential further dilution of rights and protections (under trade deals)**

There are some concerns expressed by equalities groups that certain rights and protections that they currently enjoy – in particular, relating to women's rights, consumer protections, employment rights, and precarious workers' rights – could be diluted or removed as part of the UK's pursuit of trade deals with the 70 countries which currently have trade agreements with the EU, and other countries that do not currently have a trade deal, such as the USA, if that country has lower employment, environmental and equalities standards.<sup>127</sup> The UK Parliament's Select Committee on Foreign Affairs has counselled that human rights clauses should be included in any future trade agreements that the UK negotiated to mitigate any regression in rights.<sup>128</sup>

## **Potential Impacts of a 'softer' Brexit**

Our second scenario is based around what may happen under a managed 'softer' Brexit, based on the possibility that the UK Government will 'soften' its negotiating position during the course of negotiations with the EU on a future trade and security relationship, to allow for a closer relationship with the EU.<sup>129</sup>

This scenario is based on there being a 'softening' in the UK's interpretation and application of the non-binding Political Declaration (that accompanied the Withdrawal Agreement)<sup>130</sup> when negotiating a future UK-EU relationship. In particular, this scenario involves stronger commitments to maintaining a 'level playing field' or alignment with the EU in areas of environmental and labour standards, State Aid and competition policy after the transition period ends. A level playing-field commitment had originally been included in the Withdrawal Agreement

proposed by Theresa May in January 2019. However, it was removed from the Withdrawal Agreement put forward by Boris Johnson in October 2019.<sup>131</sup>

This 'softer' Brexit scenario may also include a binding UK commitment to honouring and updating legal protections arising from future primary and secondary EU legislation and case law from the European Court of Justice, in perpetuity.

However, as the revised (December 2019) EUWAB now removes the UK Parliament's approval role in relation to the UK's negotiating mandate for the next stage of negotiations with the EU (as contained in the earlier October Bill), which could have given Parliament a role in shaping the future relationship, any 'softening' of Brexit would now likely have to be a decision of the UK Government.

### **(1) Loss of rights**

If the UK decides to enshrine most EU primary and secondary legislation, and CJEU case law, into UK law, and commits to abiding by all future EU legislation relating to employment, the environment and equalities rights, there would be less risk of a loss of rights in the UK. It would mean that current EU-derived rights would not be 'frozen in time' – as they would be continually updated to reflect EU advances in rights – and current rights derived from EU secondary legislation (such as the Part-Time Workers Directive) and CJEU rulings would be protected from being overturned by the Supreme Court or individual lower courts across the UK. However, even under a 'softer' Brexit that embodies a strong commitment to maintaining a level playing-field in workers' and social rights, individuals would still experience a loss of European citizenship, including the loss of free movement rights.<sup>132</sup>

### **(2) Economy and Public Services**

If the UK decides to commit to level playing-field provisions and to align with EU regulatory standards, this would make it easier to agree a post-Brexit UK-EU trade agreement (though potentially more difficult to agree to free trade agreements with the USA and other countries). However, as the UK would still be leaving the EU Single Market and Customs Union, a softer Brexit would still create additional barriers to trade, disrupting supply chains and potentially having an adverse effect on investment<sup>133</sup> (with a recent example being the Tesla company decision not to build a factory in the UK due to Brexit uncertainty and disruption<sup>134</sup>). A softer Brexit would therefore still be likely to have a negative impact on the UK economy, compared to membership of the EU.

### **(3) Continued impact on community relations**

Any legislation providing for closer regulatory alignment with EU standards, and closer integration with EU legislation on workers' rights, is unlikely to make a significant change to patterns of hate crimes in the UK. The UK would still be leaving the EU, and police predictions and concerns that there will be a rise in hate crimes at the time of 'Brexit Day' in England and Wales are still likely to be valid,

whatever type of Brexit is to occur.<sup>135</sup> Although there has not been an equivalent increase in recorded hate crime in Scotland or a predicted spike at the time of ‘exit day’, evidence that there has been an increase in unreported incidences of racism against young Eastern European pupils in English and Scottish schools indicates that Brexit is nevertheless having an effect on community relations in Scotland.<sup>136</sup> While it is difficult to predict what will happen over the next few months, concerns that Brexit may negatively impact society’s attitudes toward race<sup>137</sup> remain valid under a softer-type Brexit.

#### **(4) Immigration and labour market**

Even if the UK Government softens its negotiating position to include stronger level playing-field commitments and agreements to abide by future EU legislation relating to human rights and equalities in a future UK-EU trade agreement, this is unlikely to change the UK Government’s intention to create a new post-Brexit immigration system that ends EU freedom of movement and thereby creates restrictions on the rights of EU nationals to move to the UK in the future.<sup>138</sup> The proposal to create mobility arrangements between the UK and EU as part of an association agreement<sup>139</sup> – which would only apply to specific groups of people, such as intra-corporate transferees supplying services in an EU country on a temporary basis – would not mitigate the loss of EU free movement. UK nationals will still lose their European citizenship rights, including the right of free movement. Furthermore, a softer Brexit will still likely have an adverse impact on EU migration flows to the UK once free movement ends, with sectors of the economy reliant on EU migrants being hit hardest.

#### **(5) Potential further dilution of rights and protections (under trade deals)**

In this softer Brexit scenario, while a commitment to upholding EU rights and protections, and to level playing-field commitments, may mean that UK citizens will maintain many of the current equalities rights that they enjoy, it is still impossible to tell if the UK’s trade agreements with other countries may have an impact on other rights, including human rights.<sup>140</sup> For instance, a softer Brexit may not prevent the UK from deciding to open up pharmaceutical supplies to the NHS to foreign-owned companies, for instance in a UK-USA trade agreement.<sup>141</sup> This means that, under a softer Brexit, there is still a risk of loss of current social rights, especially to healthcare, medicines and consumer protections.

# Potential Impacts of a ‘no-trade deal’ Brexit

The third and final scenario we have considered is the potential impacts on equalities groups under a no-trade deal Brexit. This may happen in the case that the UK fails to agree a trade agreement with the EU by December 2020 (or fails to decide in the Joint Committee together with the EU to an extension to the transition period, a decision which must be made by 1 July 2020) and the UK then becomes a ‘third country’ in relation to the EU and reverts to World Trade Organisation (WTO) rules.

The possibility of a no-trade deal Brexit is important to consider given the UK Government’s commitment to leaving the EU at the end of the transition period (31 December 2020), and its current refusal to consider agreeing to an extension to the transition period. Indeed, UK Ministers are prohibited from agreeing an extension to the implementation period at the Joint committee by the revised (December 2019) EUWAB, even though the EU’s international trade deals “usually take seven years” involving over 30 stages, according to the European Commission.<sup>142</sup> The President of the European Commission, Ursula von der Leyen, said that it might not be possible to negotiate a comprehensive trade deal with the UK by the end of December 2020, and that negotiations should instead focus on a number of priority areas.<sup>143</sup> Michel Barnier, Head of the EU’s Task Force for Relations with the United Kingdom, also said that the compressed timescale (11 months) to negotiate a future UK-EU relationship was ‘hugely challenging’.<sup>144</sup> The Prime Minister also admitted that there was a chance that the UK will not conclude a trade deal with the EU before the end of his self-imposed deadline of December 2020.<sup>145</sup>

This section should be largely seen as additional to the ‘hard’ Brexit scenario, as many of the impacts in the hard Brexit scenario would still be likely to happen under a no-trade deal Brexit, where there is a significant rupture to UK-EU relations. This analysis draws especially on the UK Government’s ‘Operation Yellowhammer’ report as well as analysis on the economic impacts of reverting to WTO rules.<sup>146</sup>

## (1) Economic impact

In 2018, the UK Government published economic analysis of the impacts of a no-trade deal Brexit, whereby the UK would revert to a WTO-based trading relationship with the EU. The analysis signals that this would have a negative impact on the economy, leading a reduction of between 7.7% and 9.3% in GDP growth. A WTO outcome was considered alongside a ‘hard’ Brexit and other options, and “resulted in GDP being lowest over the roughly 15-year period the analysis considered.”<sup>147</sup> The imposition of tariff and non-tariff barriers between the UK and EU on the first day after the transition period under a no-trade deal Brexit (currently estimated to be 1 January 2021) would likely have a significant impact on sectors of the UK economy that rely on UK-EU trade in goods, in particular, car manufacturing, agriculture, pharmaceuticals and chemicals, where EU tariffs and quotas would be high. Furthermore, any interruptions to transportation across the Channel resulting from the creation of customs and regulatory checks (with the UK government

estimating delays of 1.5 to 2.5 days for HGVs crossing the border in its Operation Yellowhammer report on a no-deal Brexit<sup>148</sup>) could significantly disrupt supply chains. The Centre for Economic Performance estimated that a no-trade deal ‘WTO-rules only’ scenario would reduce the UK’s trade with the EU by 40% over ten years, leading to a relative fall in income per head of 2.6% per year.<sup>149</sup> Finally, even if a trade agreement is signed before the end of the transition period, several commentators, including Sir Ivan Rogers, have warned that it is unlikely that the UK and EU will be able to negotiate a deal on services within such a short timeframe – which could have a negative impact on the services sector.<sup>150</sup> The UK Government acknowledges that the economic impacts of a no-deal Brexit would disproportionately affect low-income groups, among which many equalities groups fall.<sup>151</sup>

## **(2) Shortages in health and medicine**

According to the Operation Yellowhammer report, significant haulage and transport disruptions across the Channel Straits – which is possible under a no-trade deal Brexit and the sudden imposition of WTO rules and customs checks – could “have an impact on the supply of medicines and medical supplies... making them particularly vulnerable to severe extended delays.” People most affected by delays or shortages in medicine cover several equalities groups, including people with long-term illnesses, disabled people, older people, children and young people, pregnant women and mothers- which health unions say could result in fatalities.<sup>152</sup>

## **(3) Rising food prices**

When forecasting the possible impacts of an unmanaged no-deal Brexit, the Yellowhammer report stated that a combination of interruptions in the food supply chain following a no-deal Brexit, and the expectation that “certain types of fresh food supply will decrease,” and this “will reduce availability and choice of products and will increase price, which could impact vulnerable groups”. These impacts are potentially still likely under a no-trade deal Brexit, due to the sudden imposition of tariffs and non-tariff barriers on trade in goods (including food) between the UK and the EU, and the impact of customs checks on transport and infrastructure at ports. Increasing food prices will disproportionately impact low-income groups, which cuts across several equalities groups, including minority ethnic people, women, disabled people, older people, asylum seekers and refugees.

## **(4) Rising energy prices**

The Yellowhammer report stated that “there will likely be significant electricity price increases for consumers (business and domestic)” in the case of a no-deal Brexit. In the case of a no-trade deal Brexit, this scenario is still possible, as the imposition of tariffs and non-tariff barriers on trade in goods and services between the UK and EU (including energy) is likely to increase costs for businesses, and potentially push up prices for consumers. The Yellowhammer report states, “low income groups will be disproportionately affected by any price rises in food and fuel.”

## **(5) Safeguarding and protection**

If the UK fails to negotiate a comprehensive trade agreement with the EU by the end of the transition period, which covers continued cross-border cooperation on crime, data and information sharing, there are risks to the safeguarding and protection of vulnerable groups. The Yellowhammer report stated that “law enforcement data and information sharing between UK and EU will be disrupted” in a no-deal Brexit. If a deal on the future relationship of the UK and EU – which enables the UK to cooperate with/access systems such as Europol, SIS II and the European Arrest Warrant – is not agreed by the end of December 2020, this will raise concerns that cross-border safeguarding and protection for vulnerable groups – including for instance, children – may be reduced. This could lead to an increase in the number of victims of crime.

## **(6) Loss of rights**

The EU (Withdrawal Agreement) Bill provides for the rights of EU (and EEA EFTA and Swiss) citizens in the UK as set out in the Withdrawal Agreement (and corresponding EEA EFTA and Swiss agreements). The citizens’ rights provisions in the Withdrawal Agreement set out a framework for the continued legal residence (and associated rights) of EU citizens living in the UK, and UK nationals living in the EU, at the end of the transition period. The introduction of the EU Settlement Scheme means affected individuals in the UK must apply in order to obtain residence and other rights as set out in the Withdrawal Agreement. In line with the Withdrawal Agreement, the rights of UK nationals living in other EU member states following Brexit and their rights to residence are similarly dependent on the decisions about eligibility made by individual EU member states. Furthermore, their rights to healthcare, social security and pensions are to be negotiated in a future UK-EU trade agreement. If the UK fails to secure agreement on these matters by December 2020 and there is a no-trade deal Brexit, UK citizens living in the EU may lose these social rights. The UK Government expects this to affect in particular, “UK pensioners, workers, travellers and students” who will “need to access healthcare in different ways, depending on the country.”<sup>153</sup>

## **(8) Social care crisis**

The Yellowhammer report acknowledges that the social care market is ‘already fragile’ and that a no-deal Brexit will lead to “an increase in inflation following EU exit [that] could significantly impact adult social care providers due to increasing staff and supply costs, and may lead to provider failure.” This scenario is still possible under a no-trade deal Brexit, due to the abrupt ending of free movement (and no UK-EU mobility agreements to enable some migration flows) combined with the creation of trade barriers between the UK and EU. However, a future trade agreement is likely to include a mobility framework (which is an ambition stated in the Political Declaration accompanying the Withdrawal Agreement), which could enable youth mobility between the UK-EU, which could help fill gaps in the UK social care sector. Without this, the impact of a no-trade deal Brexit on social care recruitment and service provision is likely to particularly affect disabled people and older people.

## **(9) Community tensions**

The Yellowhammer report expected that, under a no-deal Brexit, “protests and counter-protests will take place across the UK and absorb significant amounts of police resource. There may also be a rise in public disorder and community tensions.” While the Yellowhammer report does not disaggregate the likelihood of community tensions on a regional or national basis in the UK (for instance, with Scotland experiencing fewer incidences of reported hate crimes than other parts of the UK), it is possible that, in the case that the UK fails to negotiate a trade deal with the EU, there may be a rise in (reported and unreported) hate crimes, for instance against EU nationals and minority ethnic groups.

# Long List of Equalities Impacts

Having explored the general impacts of Brexit for equalities groups, the remainder of this report will focus on how Brexit may impact specific groups of people in different ways.

To begin with, the following 'long-list' captures the main impacts of Brexit on 20 equalities groups in Scotland/the UK, including people with the nine 'protected characteristics' listed under the Equality Act, and other additional groups who may experience discrimination, exclusion or inequality due to personal characteristics. The table focuses on three areas:

- legal rights
- public services and funding
- employment, housing, spending/consumer and wider community impacts.

The 137 potential impacts identified below are ones that are considered to be most significant and most widely felt across equalities groups. And while they may represent similar trends (such as the loss of certain rights or services), they are considered distinct in terms of how they occur, who they affect, or both.

Whether or not they are likely to happen depends on a number of variables that are at present difficult to forecast, including:

- whether there is a hard, softer or no-trade deal Brexit;
- whether, under a 'softer' Brexit, the UK makes a commitment to non-regression for EU rights and protections;
- whether the UK signs up to the EU's shared information systems to protect rights;
- whether the UK Government's proposed Shared Prosperity Fund adequately compensates equalities groups for the loss of EU funding and meets their needs;
- whether the UK Government unfreezes benefits and increases public spending to mitigate against any adverse economic impacts of Brexit; and
- whether the UK includes equalities clauses in any future trade agreements.

As such, some of these possible impacts may not come to pass, however, they are important to consider for risk and contingency planning.

## Women

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<p>▶ loss of general right to non-discrimination (contained in the EU Charter of Fundamental Rights) and potential loss of secondary EU legislation on rights to protection during pregnancy and maternity leave, working parents' rights, and (since women are more likely than men to work part-time) part-time workers' rights<sup>154</sup>, which may be diluted or removed by the UK Government post-Brexit</p> <p>▶ EU legislation protecting victims facing domestic violence, including female genital mutilation (FGM), who escape across borders (European Protection Order)<sup>155</sup> may end</p> <p>▶ potential loss of future rights and protections for women, contained in the EU Work-Life Balance Directive<sup>156</sup>, which entered force in August 2019 and is due to be implemented by 2022 – after Brexit</p>	<p>▶ any post-Brexit cuts in public services<sup>157</sup>, especially in previously protected budget areas such as the NHS and social care sector (which already face staffing shortages<sup>158</sup>) and unprotected areas such as local government (which, may face the deepest cuts<sup>159</sup>), will adversely affect women, as primary users of social services and associated social infrastructure<sup>160</sup></p> <p>▶ any potential cuts in women's services (such as women's health services, i.e. antenatal checks and cervical screenings), i.e. in the case that NHS services need to prioritise some services over others, would be deeply felt<sup>161</sup></p> <p>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of women's groups to continue projects tackling gender inequality and violence against women and girls (VAWG) and support women into training and employment, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p> <p>▶ potential reductions in health and social care</p>	<p>▶ women make up the majority of the workforce in certain labour market sectors (health and social work, wholesale and retail trade, and education<sup>163</sup>) that are likely to be negatively affected by Brexit, including potential job losses</p> <p>▶ any food price rises after Brexit, especially under a no-trade deal Brexit based on WTO terms<sup>164</sup>, are likely to hit the poorest households, which will disproportionately affect women, who are more likely to live in poverty<sup>165</sup>, especially single women and single mothers</p> <p>▶ women are likely to bear the brunt of reductions in spending power, as the principal managers of family budgets and 'shock absorbers' of reduced income<sup>166</sup></p>

	services would disproportionately affect women, who are most likely to be expected to take on unpaid caring responsibilities owing to reductions in EU care workers when free movement ends <sup>162</sup>	
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## Children and Young People

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ potential loss of protections of children’s rights guaranteed under the EU Charter of Fundamental Rights, CJEU case law and secondary legislation. This includes support for child victims under the EU Anti-Trafficking Directive, which has not been fully transposed into UK law, and the right for children to be forgotten online once they grow up, under the EU Data Protection Directive<sup>167</sup></li> <li>▶ potential loss of child safeguarding and protection measures, including measures to combat child trafficking, child abuse and child sexual exploitation, if the UK discontinues membership of Europol, Eurojust and the European Arrest Warrant Scheme<sup>168</sup></li> </ul>	<ul style="list-style-type: none"> <li>▶ any post-Brexit cuts in public services<sup>173</sup>, especially in the NHS and social care sector (which already face staffing shortages<sup>174</sup>) will adversely affect children and young people, especially those from families on low incomes and those dependent on children’s services</li> <li>▶ cuts in EU funding (ESIF and Horizon2020) will adversely affect investment in children and young people’s organisations and educational programmes that support children’s and young people’s rights, address social inclusion, improve access to education, support them into the workplace, and ensure their welfare and protection, if they are not fully replaced under the proposed UK Shared Prosperity Fund</li> </ul>	<ul style="list-style-type: none"> <li>▶ potential increase of child poverty, due to any post-Brexit cuts in public services, rising inflation, the continued freeze on children’s benefits and tax credits, and expected rising living costs (including food prices, rent and utilities)<sup>175</sup></li> <li>▶ potential increase in child homelessness caused by the above factors</li> <li>▶ any future UK trade deals may not have sufficient safeguarding mechanisms to ensure products and services are suitable for exposure to children or are protected from unsuitable products and services.<sup>176</sup></li> <li>▶ children of EU nationals may be required to leave their homes in the UK if their parents are left without status/residency<sup>177</sup></li> </ul>

<ul style="list-style-type: none"> <li>▶ potential loss of protection of children’s rights in ‘international families’ if the UK discontinues membership of the EU family framework (Brussels II bis Regulation<sup>169</sup>) that regulates cross-border family law</li> <li>▶ EU children in custody may lose their rights to settle in the UK after Brexit as they are not able to apply to the EU Settlement Scheme while in prison<sup>170</sup></li> <li>▶ children of EU nationals may be required to leave the UK if their parents are left without status<sup>171</sup></li> <li>▶ unaccompanied children seeking asylum may lose their rights to family reunion in the UK under the revised EUWAB<sup>172</sup></li> </ul>		
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## Older People

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ older UK nationals who have retired to other EU countries may lose their rights of residence in that country if they do not meet national requirements, and their social security &amp; State Pension entitlements could be affected (depending on whether a UK-EU agreement makes provision for this), which have thus far been</li> </ul>	<ul style="list-style-type: none"> <li>▶ any post-Brexit cuts in public services<sup>180</sup>, such as the NHS and social care sector (which already face staffing shortages) and other local government services<sup>181</sup>, will adversely affect older people, especially those on low incomes<sup>182</sup></li> <li>▶ any shortages of medications, especially under a no-trade deal Brexit<sup>183</sup>, could</li> </ul>	<ul style="list-style-type: none"> <li>▶ any post-Brexit food price rises<sup>186</sup>, in particular in the case of a no-trade deal Brexit on WTO terms<sup>187</sup>, are likely to hit the poorest households, which will disproportionately affect older people and pensioners</li> <li>▶ some older people may have to return to residential homes or lose their ability to live</li> </ul>

<p>guaranteed under EU law and reciprocity<sup>178</sup></p> <ul style="list-style-type: none"> <li>▶ older UK residents in, and travellers to, other EU countries could lose their entitlements to free or reduced cost healthcare (under the European Health Insurance Card scheme)</li> <li>▶ older EU nationals may lose their rights to continue living in the UK if they do not apply for settled status (which older people with dementia and other cognitive impairments are at risk of doing)<sup>179</sup></li> </ul>	<p>disproportionately affect older people, who are more likely to have health conditions and require medication</p> <ul style="list-style-type: none"> <li>▶ access to new medicines may also be affected if the UK fails to remain a member of the European Medicines Agency after Brexit<sup>184</sup>, which will disproportionately affect older people, who tend to take more medication than younger people<sup>185</sup></li> <li>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of older people's organisations to continue projects and research that tackle age discrimination and inequality, if they are not fully replaced under the proposed UK Shared Prosperity Fund</li> </ul>	<p>independently if there are continuing shortages in personal assistant (PA) care workers (resulting from declining numbers of EU care workers and the potential adverse impact of future salary thresholds for migrant care workers)<sup>188</sup></p> <ul style="list-style-type: none"> <li>▶ older people's consumer rights may be affected if the UK opts out of EU shared information systems, such as Europol, thereby reducing cross-border cooperation on scams and criminal targeting of older people<sup>189</sup></li> </ul>
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## Minority Ethnic people

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ loss of general right to non-discrimination (contained in EU Charter), recourse to the CJEU and potential loss of specific rights and protections against workplace racial discrimination, which are currently contained in EU secondary legislation (regulations, directives, and case law)</li> </ul>	<ul style="list-style-type: none"> <li>▶ any post-Brexit cuts in public services<sup>192</sup>, especially in areas such as the NHS and social care sector (which already face staffing shortages) and other local government services<sup>193</sup>, will adversely affect minority ethnic communities, as they tend to be substantial users of public services<sup>194</sup></li> </ul>	<ul style="list-style-type: none"> <li>▶ minority ethnic families, who are more likely to be in low-paid work, have less in savings, and spend a greater than average share of their income on food and rent, are at a higher risk of poverty if there is a post-Brexit economic downturn<sup>199</sup></li> <li>▶ a majority of Black, Asian and Minority Ethnic</li> </ul>

<p>▶ any amendments or repeal of EU directives on Part-Time Working or Agency Working, will disproportionately affect minority ethnic people who are more likely than average to be in insecure work.<sup>190</sup> For instance, research has shown that black Britons are twice as likely to be working in precarious employment (such as part-time, agency and seasonal work) than white people<sup>191</sup></p>	<p>▶ public safety issues: the HM Inspectorate of Constabulary anticipates a further rise in hate crimes in England and Wales when the UK formally leaves the EU; it is unclear what the effects of this might be in Scotland<sup>195</sup></p> <p>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of minority ethnic organisations to continue projects and research that tackle racism and discrimination, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p> <p>▶ Black, Asian and Minority Ethnic EU nationals (who comprise about 10% of the EU-born population in the UK) are “more likely to be asked for identification to access employment, housing and healthcare” than non-BAME EU nationals.<sup>196</sup> They are disproportionately likely to be affected by changes to immigration laws.</p> <p>▶ Likewise people from visible minorities have a higher potential to experience racial profiling at the UK’s ports and airports<sup>197</sup> and be discriminated against during immigration checks by employers and landlords, particularly if “they do not appear to be British.”<sup>198</sup></p>	<p>people fear that their career progression will negatively be impacted by Brexit<sup>200</sup></p> <p>▶ any post-Brexit cuts to the public sector, especially health and social care, which employ a large number of minority ethnic people (for instance black workers have the highest proportion (42%) of any ethnic group working in the public sector<sup>201</sup>) could lead to job losses</p> <p>▶ Brexit may result in job losses in specific sectors employing a high number of minority ethnic people, including the clothing sector and plant and machine operations<sup>202</sup></p> <p>▶ any food price rises after Brexit<sup>203</sup>, especially in the case of a no-trade deal outcome, are likely to hit the poorest households, which will disproportionately affect minority ethnic communities, who are twice as likely to live in poverty than white groups<sup>204</sup></p>
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## EU Nationals

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ loss of rights of residence (under EU free movement) in the UK after the end of the transition period</li> <li>▶ loss of recourse to the European Court of Justice in some circumstances and reduced rights to appeal</li> <li>▶ loss of general right to non-discrimination (contained in EU Charter)</li> <li>▶ potential loss of residency rights, if they are unable to meet all the requirements for Settled Status under the EU settlement scheme (certain EU nationals, i.e. care-experienced children and older people are especially vulnerable) and risk of deportation<sup>205</sup></li> <li>▶ EU nationals in prison are unable to apply for settled status, and will need five years continuous residence <i>after they are released</i> to be considered for settled status<sup>206</sup></li> </ul>	<ul style="list-style-type: none"> <li>▶ the HM Inspectorate of Constabulary anticipates a further rise in hate crimes in England and Wales when the UK formally leaves the EU; it is unclear what the effects of this might be in Scotland<sup>207</sup></li> <li>▶ uncertainty around future rights to access public services in the UK due to the significant variation in rights that EU nationals will hold after Brexit (depending on whether they have settled status or pre-settled status, or neither, and for those arriving after Brexit, if they come to live in the UK on a worker's visa or on European Temporary Leave to Remain)<sup>208</sup>. This makes it difficult and potentially confusing for public service providers to know whether they are eligible for benefits, access to healthcare, or other public services</li> </ul>	<ul style="list-style-type: none"> <li>▶ employers and landlords, which are performing the role of border management on behalf of the UK Home Office by conducting checks on migrants to determine whether they have a current right to work and study in the UK, have been shown to have made mistakes and/or discriminated against migrants on the basis of nationality<sup>209</sup></li> <li>▶ some evidence suggests that landlords, for instance, are discriminating against migrants through the 'Right to Rent' scheme, by 'erring on the side of caution' and opting not to rent to them in case they are proven to be in the UK unlawfully.<sup>210</sup> These effects are likely to be exuberated by changes to the rules around immigration.</li> </ul>

## Refugees and asylum seekers

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ as the UK Government is not seeking third-country access to the EU's</li> </ul>	<ul style="list-style-type: none"> <li>▶ the UK's policies on refugees and asylum seekers are unlikely to</li> </ul>	<ul style="list-style-type: none"> <li>▶ any food price rises after Brexit<sup>218</sup>, especially in a no-trade deal scenario</li> </ul>

<p>Dublin Regulation scheme for examining asylum applications after the transition period, it has decided not to opt-in to the Dublin IV regulation, and it has proposed to remove the obligation to negotiate an agreement on arrangements between the UK and EU on unaccompanied asylum-seeking children in the revised EUWAB,<sup>211</sup> there is a risk that asylum-seeking children may lose the right to unite with their families in the UK after Brexit, and will be more likely to try and enter using unsafe passages<sup>212</sup></p> <p>► EU laws against trafficking, which disproportionately affect vulnerable and undocumented migrants<sup>213</sup>, will end after Brexit</p>	<p>change significantly after Brexit<sup>214</sup>, aside from the Dublin regulation, and so the reception and entitlements of refugees and asylum seekers to public services are expected to remain broadly the same</p> <p>► however, any post-Brexit cuts in public services<sup>215</sup>, especially in areas such as the NHS (which already face staffing shortages) and local government<sup>216</sup>, will adversely affect refugees and asylum seekers, who are disproportionately reliant on public services, including accommodation and support while asylum claims are being processed, and help with the integration of refugees into local communities<sup>217</sup></p>	<p>under WTO terms<sup>219</sup>, are likely to hit the poorest households, which will disproportionately affect refugees and asylum seekers who have few economic resources</p> <p>► any rise in the cost of living will especially affect asylum seekers in the UK who, at present, are not allowed to work and must survive on a government allowance of only £37.75 per week while their application is being processed<sup>220</sup></p>
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## People on low incomes

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<p>► the EU Working Time Directive could be 'scrapped' by the UK Govt post-Brexit,<sup>221</sup> adversely affecting people on low incomes</p> <p>► the EU Part-Time Working and Agency Working Directives – which affect many low-income people on</p>	<p>► any post-Brexit cuts in public services<sup>222</sup>, such as the NHS, social security, and local government services,<sup>223</sup> will adversely affect people on low incomes, especially those on Universal Credit</p> <p>► cuts in EU funding (ESIF and Horizon 2020) will adversely affect the</p>	<p>► any food and energy price rises after Brexit<sup>224</sup>, especially in a no-trade deal scenario<sup>225</sup>, are likely to hit the poorest households, which will disproportionately affect people on low incomes</p> <p>► Brexit may result in job losses in specific low-paid or low-skilled sectors</p>

<p>precarious employment contracts - are also vulnerable to amendments or repeal after Brexit, as they are not on the UK statute books</p>	<p>capacity of civil society organisations to continue projects that tackle poverty, fund foodbanks, support people on low incomes and encourage people from disadvantaged backgrounds into education and employment, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p>	<p>employing a high number of people on low incomes, including textiles and clothing, transport equipment, social care and plant and machine operations<sup>226</sup></p> <p>▶ any continued contraction of the construction industry, which has slumped since the EU referendum in 2016<sup>227</sup>, will further reduce the number of homes being built, which will have an adverse effect on people on low incomes who require affordable or social housing<sup>228</sup></p>
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### Disabled people (including those with long-term illnesses)

<p><b>Legal Rights</b></p>	<p><b>Public Services &amp; Funding</b></p>	<p><b>Employment, Housing, Spending and wider community</b></p>
<p>▶ loss of general right to non-discrimination (contained in EU Charter) and potential loss of secondary EU legislation on rights to non-discrimination and accessibility under the EU Air Passenger Rights Directive</p> <p>▶ disabled UK nationals who are resident in, or travellers to, other EU countries could lose their entitlements to free or reduced cost healthcare (under the European Health Insurance Card scheme)<sup>229</sup></p>	<p>▶ any post-Brexit cuts in public services<sup>232</sup>, especially in areas such as the NHS and social care sector (which already face staffing shortages) and local government (i.e. transport), will adversely affect disabled people who rely on public services</p> <p>▶ disabled people, and especially people with long-term illnesses, will be disproportionately impacted by any medicine shortages or disruptions to medication and medical aid supply chains (which is possible under a no-trade deal Brexit<sup>233</sup>)</p>	<p>▶ any food price rises after Brexit<sup>236</sup>, especially in a no-trade deal scenario under WTO terms<sup>237</sup>, are likely to hit the poorest households, which will disproportionately affect disabled people, who have higher poverty rates than the rest of the UK population and tend to be on lower incomes<sup>238</sup></p> <p>▶ disabled people rely more on public transport than the rest of the UK population (almost half of disabled people rely on public transport<sup>239</sup>), and their ability to work may be</p>

<ul style="list-style-type: none"> <li>▶ disabled people may lose their rights to use their Blue Badge parking permit in EU countries after Brexit<sup>230</sup></li> <li>▶ disabled people will likely not be provided with the benefits of the EU Disability Card, which the UK has so far not signed up to</li> <li>▶ potential loss of future rights and protections for disabled people, contained in the European Accessibility Act, currently being discussed in Brussels<sup>231</sup></li> </ul>	<ul style="list-style-type: none"> <li>▶ access to new medicines may also be affected if the UK fails to remain a member of the European Medicines Agency after Brexit<sup>234</sup>, which will disproportionately affect disabled people and people with long-term health conditions</li> <li>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of disabled people’s organisations to continue projects and research that tackle disability discrimination and support disabled people into employment, if they are not fully replaced under the proposed UK Shared Prosperity Fund</li> <li>▶ disabled people living in the EU are more vulnerable to any obstacles to cross-border social security coordination, as they are more likely to rely on welfare benefits<sup>235</sup></li> </ul>	<p>affected by a reduction in public transport services</p> <ul style="list-style-type: none"> <li>▶ any reductions in support services (i.e. ESIF funding that is not replaced) to help disabled people into training and employment could have a profound effect on the participation of disabled people in the labour market</li> <li>▶ any continued contraction of the construction industry due largely to Brexit uncertainty<sup>240</sup>, which would further reduce the number of new homes being built, will have an adverse effect on disabled people who require accessible or adapted housing “in order to live safe and independent lives”<sup>241</sup></li> </ul>
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## Pregnancy/Maternity

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ the Pregnant Workers Directive is under threat of being ‘scrapped’ by the UK post-Brexit<sup>242</sup></li> <li>▶ under the EU Withdrawal Act (2018) UK courts after Brexit are not</li> </ul>	<ul style="list-style-type: none"> <li>▶ any post-Brexit cuts in public services<sup>244</sup>, especially in areas such as the NHS (which already face staffing shortages, and which has indicated in one region that it considered suspending</li> </ul>	<ul style="list-style-type: none"> <li>▶ any roll-back in EU-derived employment protections for pregnant and part-time workers could adversely affect the capacity of pregnant women and mothers to</li> </ul>

<p>required to follow CJEU rulings and case law, for instance to protect pregnant workers</p> <p>▶ potential loss of future rights and protections for mothers, contained in the EU Work-Life Balance Directive<sup>243</sup>, due to be implemented by 2022 – after Brexit</p>	<p>some women’s health services, including antenatal checks, if a no-deal Brexit had occurred<sup>245</sup>), will adversely affect pregnant women and mothers</p> <p>▶ cuts in EU funding will adversely affect projects aimed at supporting the mental and physical health of pregnant women and mothers, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p>	<p>stay in/enter the labour market, given their additional caring duties</p>
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### Faith and religious communities

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<p>▶ any weakening of equalities legislation as a result of leaving the EU, in particular the loss of the EU Charter of Fundamental Rights’ freestanding right to non-discrimination, may affect the protections afforded to faith and religious communities</p>	<p>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of civil society organisations to continue projects that tackle Islamophobia, anti-Semitism, sectarianism, and other forms of faith-based discrimination, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p>	<p>▶ some faith and religious groups have experienced an increase in hate crimes UK wide since Brexit, in particular Muslim communities<sup>246</sup></p> <p>▶ any rise in Islamophobia will continue to have a negative effect on Muslim people’s employment prospects and wellbeing</p> <p>▶ UK wide, Muslim women in particular have been the target of hate crimes and discrimination<sup>247</sup></p>

### LGBTQIA+ (including non-binary) people

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<p>▶ Article 21 of the EU Charter of Fundamental</p>	<p>▶ cuts in EU funding (ESIF and Horizon 2020)</p>	<p>▶ people from a LGBTQIA+ have</p>

<p>Rights prohibits the discrimination based on sexual orientation</p> <ul style="list-style-type: none"> <li>▶ while the Equality Act protects people with protected characteristics, it does not contain a freestanding right to non-discrimination, unlike the EU Charter<sup>248</sup></li> <li>▶ after Brexit the “important safety net” of the EU Charter “will no longer exist, and the Parliament will have greater latitude to amend key rights for LGBT+ communities”<sup>249</sup></li> <li>▶ people from LGBTQIA+ communities will no longer benefit from future EU advancements in LGBT rights or CJEU case law</li> </ul>	<p>will adversely affect the capacity of LGBTQIA+ organisations to continue projects that create visibility and understanding around queer lives and tackle homophobia and discrimination, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p>	<p>experienced increasing hostility and discrimination since the Leave vote (in England and Wales)<sup>250</sup></p> <ul style="list-style-type: none"> <li>▶ in the three months after the EU referendum in June 2016, hate crimes against LGBTQIA+ people rose 147% in parts of England, measured against the same period in 2015.<sup>251</sup> In Scotland, the Equality Network conducted a hate crime survey that found that 64% of LGBTQIA people had experienced a hate crime in 2016-17, and 70% had not reported the incident to the police<sup>252</sup></li> </ul>
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## Gypsy/Travellers

<b>Legal Rights</b>	<b>Public Services &amp; Funding</b>	<b>Employment, Housing, Spending and wider community</b>
<ul style="list-style-type: none"> <li>▶ as EU Gypsies, Travellers and Roma often lack identity documents, and have different language and literacy abilities and access to technology, they may potentially lose their rights to live in the UK, as they face barriers to meeting the requirements to apply through the online Settlement Scheme<sup>253</sup>, risking deportation<sup>254</sup></li> </ul>	<ul style="list-style-type: none"> <li>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of civil society organisations to continue projects and research that support the rights of Traveller and Gypsy communities and tackle inequality and discrimination, if they are not fully replaced under the proposed UK Shared Prosperity Fund</li> </ul>	<ul style="list-style-type: none"> <li>▶ any food price rises after Brexit <sup>255</sup>, especially in a no-trade deal scenario under WTO terms<sup>256</sup>, are likely to hit the poorest households, which will disproportionately affect traveller communities who face multiple disadvantage<sup>257</sup> and are the most vulnerable to extreme poverty out of all ethnic groups<sup>258</sup></li> </ul>

## Care-experienced people

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ care-experienced EU migrant children may lose their rights to settle in the UK if they do not apply for status in the EU settlement scheme<sup>259</sup></li> <li>▶ if a child’s foster carer is an EU national who loses their status to live in the UK, the foster carer may have to take the child with them<sup>260</sup></li> </ul>	<ul style="list-style-type: none"> <li>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of civil society organisations to continue projects that support care-experienced people, and develop routes into education and employment, if they are not fully replaced under the proposed UK Shared Prosperity Fund</li> </ul>	<ul style="list-style-type: none"> <li>▶ any food price rises after Brexit<sup>261</sup>, especially in a no-trade deal scenario under WTO terms<sup>262</sup>, are likely to hit the poorest households, which will disproportionately affect care-experienced young people, who are more vulnerable to poverty and face lower outcomes compared to their peers<sup>263</sup></li> </ul>

## People with caring duties

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ under EU law, there is protection from discrimination for people who are caring for disabled people, which could be diluted</li> <li>▶ potential loss of future rights and protections for carers (including annual leave entitlement for workers providing personal care), contained in the EU Work-Life Balance Directive<sup>264</sup>, due to be implemented by 2022 – after Brexit</li> </ul>	<ul style="list-style-type: none"> <li>▶ any post-Brexit cuts in public services<sup>265</sup>, especially in areas such as the NHS and social care sector (which already face severe staffing shortages, which has been likened to a ‘crisis’ in the care sector<sup>266</sup>) and local government services<sup>267</sup>, will adversely affect people providing unpaid caring responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>▶ any food price rises after Brexit<sup>268</sup>, especially in a no-trade deal scenario under WTO terms<sup>269</sup>, are likely to hit the poorest households. This will disproportionately affect unpaid carers, who have a higher poverty rate than average (22%)<sup>270</sup>, whereby the poverty rate among unpaid carers increases with the number of hours they are caring<sup>271</sup></li> <li>▶ for foster carers, foster agencies may not wish to approve an EU national whose settlement status is uncertain or temporary (i.e. pre-settled status)<sup>272</sup></li> </ul>

## People in remote and rural areas

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
	<ul style="list-style-type: none"> <li>▶ if public services in remote and rural regions are reduced after Brexit, this will especially impact older people, disabled people and people on low incomes, who are more dependent on public transport and less likely to own a car</li> <li>▶ the expected decline in EU in-migration after Brexit could have an adverse impact on public services in rural /remote communities, due to an overall decline in population, and reduced demand for public services <sup>273</sup></li> <li>▶ loss of funding for rural communities, including the European Regional Development Fund (ERDF), European Social Fund, Common Agricultural Policy, European Maritime and Fisheries Fund, and the LEADER fund<sup>274</sup></li> </ul>	<ul style="list-style-type: none"> <li>▶ ending free movement will have a particularly adverse effect on labour market sectors in rural and remote areas, which rely on EU migrants to fill local jobs<sup>275</sup></li> <li>▶ many small businesses and farms in rural and remote areas may find that they are unable to hire enough staff to deliver services, owing to expected declines in EU migration post-Brexit<sup>276</sup></li> </ul>

## Precarious workers

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<ul style="list-style-type: none"> <li>▶ Agency Workers Directive could be 'scrapped' by the UK Govt post-Brexit, especially as a binding commitment to</li> </ul>		<ul style="list-style-type: none"> <li>▶ any food price rises after Brexit <sup>278</sup>, especially in a no-trade deal scenario under WTO terms<sup>279</sup>, are likely to hit the poorest</li> </ul>

<p>non-regression on EU workers' rights has been removed from the revised EUWAB<sup>277</sup></p> <p>▶ Part-time Workers Directive and Fixed Term Workers Directive could also potentially be rolled back, affecting the legal rights of precarious workers</p>		<p>households, which will disproportionately affect precarious workers, who tend to be on lower incomes and are more vulnerable to in-work poverty<sup>280</sup></p>
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### Offenders and Ex-offenders

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<p>▶ EU children serving jail sentences in the UK could lose their right to remain as they are ineligible to apply for EU settled status while they are in jail; those released after the deadline would have “no legal immigration status”, which increased the risk of reoffending or deportation<sup>281</sup></p>	<p>▶ cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of civil society organisations to continue projects that support people who have been touched by the criminal justice system into education, employment and good health, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p>	<p>▶ a no-deal Brexit was seen to have ‘severe consequences’ for the justice system, with the possibility of prison riots if there were food and medicine shortages; these risks to supply chains are still possible under a no-trade deal Brexit<sup>282</sup></p> <p>▶ such unrest would be damaging to the justice system<sup>283</sup></p> <p>▶ prisons could be negotiated as part of the UK’s future free trade deals, for instance with the USA<sup>284</sup>, which could affect the living standards of people in jail</p>

### Homeless people

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<p>▶ some EU nationals who are homeless will not be</p>	<p>▶ if the economy performs poorly and there</p>	<p>▶ any food price rises after Brexit<sup>286</sup>, especially</p>

<p>able to apply for residence through the EU Settlement Scheme, as they lack proof of address or employment, may be unaware of the scheme, or lack access to a smartphone to complete the online application, thereby increasing their risk of deportation<sup>285</sup></p>	<p>are cuts to public spending after Brexit, the number of public services available to homeless people, including shelters, temporary accommodation, and initiatives to support homeless people into employment, may decline</p> <ul style="list-style-type: none"> <li>▶ cuts in EU funding (especially the ESF) will adversely affect the capacity of civil society organisations to continue projects that support homeless people, and people at risk of homelessness, into secure accommodation, education and employment, if they are not fully replaced under the proposed UK Shared Prosperity Fund</li> <li>▶ homeless EU nationals may have difficulty accessing healthcare and other public services, especially if they do not have clear status</li> </ul>	<p>in a no-trade deal scenario under WTO terms<sup>287</sup>, are likely to hit the poorest households, which will disproportionately affect homeless people, who are likely to be living in poverty<sup>288</sup></p> <ul style="list-style-type: none"> <li>▶ any continued contraction of the construction industry due largely to Brexit uncertainty<sup>289</sup>, which would further reduce the number of new homes being built, will have an adverse effect on homeless people who require affordable or social housing</li> <li>▶ homeless EU nationals may have difficulty accessing employment or private housing due to landlord and employer checks</li> <li>▶ if the economy performs poorly after Brexit, the number of people at risk of homelessness (especially people on low incomes) is expected to increase<sup>290</sup></li> </ul>
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## People with substance abuse issues

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
	<ul style="list-style-type: none"> <li>▶ if the economy performs poorly and there are continued cuts to public spending, the number of services available to people with</li> </ul>	<ul style="list-style-type: none"> <li>▶ any food price rises after Brexit<sup>292</sup>, especially in a no-trade deal scenario under WTO terms<sup>293</sup>, are likely to hit the poorest households, which will</li> </ul>

	<p>substance abuse issues, i.e. drug and alcohol services and rehabilitation programmes, will decline, potentially putting lives at risk<sup>291</sup></p> <p>► cuts in EU funding (ESIF and Horizon 2020) will adversely affect the capacity of civil society organisations to continue projects that support people who have problems with drug abuse or addiction to become healthy and find routes into education and employment, if they are not fully replaced under the proposed UK Shared Prosperity Fund</p>	<p>disproportionately affect people with substance abuse issues, who face a range of employability barriers and are more vulnerable to poverty and deprivation<sup>294</sup></p>
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## Men

Legal Rights	Public Services & Funding	Employment, Housing, Spending and wider community
<p>► potential loss of two weeks paid paternity leave, guaranteed by EU law and originally opposed by the UK Government<sup>295</sup></p> <p>► potential loss of future rights and protections for fathers, contained in the EU Work-Life Balance Directive<sup>296</sup>, due to be implemented by 2022 – after Brexit</p>	<p>► as men are more likely to die by suicide than women<sup>297</sup>, are more likely to suffer from cardiovascular disease<sup>298</sup>, and have higher rates of smoking and drinking than women (which increases the risk of liver and lung disease)<sup>299</sup>, and are more likely to develop diabetes<sup>300</sup>, they will be disproportionately affected by any post-Brexit cuts in public spending that reduce NHS services</p>	<p>► men make up the majority of certain sectors (plant and machinery, agriculture, manufacturing, chemicals and pharmaceuticals, and finance) that are estimated to be negatively affected by Brexit, potentially leading to job losses<sup>301</sup></p> <p>► any roll-back in EU-derived employment protections for fathers could adversely affect their career progression, given their additional caring duties</p>

		<p>► as men are at a greater risk of homelessness than women<sup>302</sup>, they will be disproportionately affected by any continued contraction of the construction industry due to uncertainty around Brexit<sup>303</sup>, which reduces social and affordable housing</p>
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# Equalities Groups: Case Studies

This section provides greater detail and analysis on how particular equalities groups may be impacted by Brexit, by considering three case studies on (1) women, (2) disabled people, and (3) people from a minority ethnic background.

The analysis aims to consider three types of impacts:

- impacts on legal rights;
- impacts on public services and funding; and
- impacts on employment, housing and spending/consumer rights.

Each case study furthermore considers the legal and socioeconomic impacts which are most likely to happen under each Brexit scenario (hard, softer, no-trade deal) and the extent to which each group may be resilient to such impacts.

Given the short timescale to produce this report, it is important to note that this analysis is not comprehensive, and there may be other impacts that have not been anticipated here.

## Case Study: Women

Women make up 51% of the population in Scotland.<sup>304</sup> Women's groups have argued that the UK's decision to leave the European Union will disproportionately affect women and exacerbate gender inequality. Most notably, the Women's Budget Group (WBG) has conducted extensive research into the economic impacts of Brexit on gender equality, publishing a number of reports on this area.<sup>305</sup> The WBG's conclusions are that Brexit "will hit women hard, leading to lost jobs, cuts to services and a squeeze on family budgets".<sup>306</sup>

Furthermore, the WBG issued a response to the UK Government's proposed EU (Withdrawal Agreement) Bill of October 2019, arguing that,

"For many women, particularly the poorest, black and minority ethnic (BAME) women and disabled women, this [Bill] could mean job losses, cuts to services, squeezed family budgets and reduced legal protections."<sup>307</sup>

Given these potential adverse impacts of Brexit on women, the WBG has been critical of the UK Government for not conducting an equality impact assessment into how women's rights, welfare and status may be affected by Brexit.<sup>308</sup>

The potential impacts of Brexit on women (both the legal and the socio-economic effects) are summarised in the infographic below:

# Potential Social Impacts of Brexit on Women

Legal	Socio-economic
<ul style="list-style-type: none"> <li>● Loss of EU Charter/CJEU Protections</li> <li>● Loss of Pregnant Workers' Directive</li> <li>● Loss of Agency Workers' Directive</li> <li>● Loss of Work-Life Balance Directive</li> <li>● Lack of Istanbul Convention</li> <li>● Loss of European Citizenship</li> <li>● Loss of Free Movement rights</li> </ul>	<ul style="list-style-type: none"> <li>● Cuts to women's health services</li> <li>● Cuts in benefits and public services</li> <li>● Need to take up more unpaid caring</li> <li>● Loss of women's funding (ESIF)</li> <li>● Lack of affordable housing</li> <li>● Reduced spending power</li> <li>● Increased vulnerability to job losses</li> </ul>

## Women: Legal Rights

European legislation has advanced women's rights to equal pay, maternity leave, paid annual leave for part-time workers, equal treatment, and safe workplaces.<sup>309</sup> Many of these rights have been enshrined in the EU Charter of Fundamental Rights, which provides a statutory 'backstop' for UK equality rights and brings together in a single text all the rights that people enjoy within the EU. Other specific rights and protections are contained within secondary legislation such as EU directives and regulations, while specific rights have been strengthened through rulings of the Court of Justice of the European Union (CJEU).

The EU (Withdrawal) Act 2018 states that the EU Charter will not be "part of domestic law on or after exit day" and that "the removal of the Charter from UK law does not affect the retention in UK law of fundamental rights or principles that exist irrespective of, and prior to, the Charter." In particular, the UK Government maintains that the Equality Act 2010, which consolidated and transposed EU law, will "ensure the continued protection of people's rights not to be discriminated against, harassed or victimised."<sup>310</sup>

However, the Equality and Human Rights Commission (EHRC) has warned that advances in women's rights are potentially under threat if the UK does not enshrine the EU Charter of Fundamental Rights into domestic law once it leaves the EU.<sup>311</sup> According to legal scholars, "without the binding force of EU law, there is no obstacle to Parliament repealing or undermining the right to equality, currently contained in the Equality Act 2010."<sup>312</sup>

The EHRC identifies women's EU-derived employment rights and the EU Charter's free-standing right to non-discrimination as areas of particular concern.<sup>313</sup> EU secondary legislation around women's rights, which are not part of the UK statute book, are also vulnerable to being diluted by the UK after Brexit.

One important piece of secondary legislation is the Pregnant Worker's Directive (PWD), which protects the rights of pregnant women in the workplace. According to the Trade Union Congress, the PWD has made "substantial improvements in health and safety protections for expectant and new mothers in the workplace" as it has given "women paid time off for ante-natal appointments and placed duties on employers to assess risks and to adjust working conditions, transfer a pregnant or breastfeeding worker to alternative work or suspend them on paid leave where harm is identified."<sup>314</sup> Any moves to repeal or dilute the PWD would have a widespread and deeply felt impact on the rights and protections of pregnant workers.

Another piece of secondary legislation that is important to women's rights is the Agency Worker's Directive, which protects the rights of people on agency or zero-hours contracts (the majority of which in the UK are women<sup>315</sup>). Former UK Government Brexit Minister Martin Callanan indicated the possibility of these rights being rolled back after Brexit, when he said that the Pregnant Worker's Directive and the Agency Workers Directive were 'barriers to actually employing people' which 'we could scrap'.<sup>316</sup>

Furthermore, the EHRC maintains that UK women risk losing out on future advances in EU gender equality legislation once the UK leaves the EU. This could include rights to extended parental leave, paid carers leave, and extended flexible working rights, which are part of the new Work Life Balance Directive that was recently adopted by the EU Council (but as yet not signed up to by the UK), which will be implemented by EU Member States by mid-2022.<sup>317</sup> The UK has also failed to ratify the Istanbul Convention to end violence against women and girls, which has been ratified by 26 other Council of Europe members.<sup>318</sup>

Furthermore, the UK Government has stated that any new rulings by the CJEU on equalities law will not be automatically binding on the UK:

"EU general principles which have been recognised in CJEU cases decided before exit will form part of domestic law after exit. After exit therefore, any question as to the meaning of retained EU law will be determined in UK courts in accordance with relevant pre-exit CJEU case law and retained general principles."<sup>319</sup>

This implies that some EU-derived women's rights may be 'frozen in time'. Furthermore, there are concerns that future trade deals could affect women's rights and protections.<sup>320</sup>

## **Women: Public Services & Funding**

The Women's Budget Group (WBG) has explored how the projected economic downturn and fall in GDP post-Brexit will have an impact on women as users of public services.<sup>321</sup> They argue that women will likely be worse off on average if there are cuts to government spending, given that women are more likely to use public services and the benefits system.<sup>322</sup> Public sector cuts will especially affect disadvantaged women, such as single mothers and minority ethnic women, who are vulnerable to cuts in benefits and services. As well as affecting women as users of public services and recipients of benefits and tax credits, government spending cuts will also affect women as employees in the public sector.

“Reductions in public spending have a disproportionate negative impact on women as the primary users of public services, the majority of workers in the public sector, and the main providers of unpaid work when public services are cut.”<sup>323</sup>

In particular, there are concerns that, if there are cuts to social care and health services after Brexit, it will likely be women who will be expected to step in and fill any gaps in provision. For instance, a report by the Department of Health submitted to the Migration Advisory Committee (MAC)<sup>324</sup> indicated that women might have to give up paid work to provide “informal care” for loved ones if EU care workers are unable to easily migrate to the UK after Brexit (which appears unlikely, due to the MAC's proposed £30k salary threshold for economic migrants<sup>325</sup>). The DoH report stated that in a ‘worst case scenario’ there will be a “wider risk to labour market participation more generally, especially when considering increasing social care needs. If we fail to meet social care needs adequately we are likely to see a decrease in labour market participation levels, especially among women, as greater numbers undertake informal care.”<sup>326</sup> This is something, the WBG points out, that women already do, by already providing the majority of unpaid care in the UK.

There are also concerns about the loss of funding for women's organisations, once the UK exits the EU and is no longer part of the European Structural and Investment Fund (ESIF) programmes.<sup>327</sup> The European Social Fund (ESF) and European Regional Development Fund (ERDF) have provided considerable support to women's organisations to, for instance, deliver integrated health and social care services to women, support victims of domestic violence, protect the rights of minority ethnic women, and support women from disadvantaged backgrounds into training and employment, to name a few.<sup>328</sup> There are concerns that these organisations will be unable to deliver projects to support women if the funding streams are not fully replaced by the UK (in its proposed Shared Prosperity Fund).<sup>329</sup>

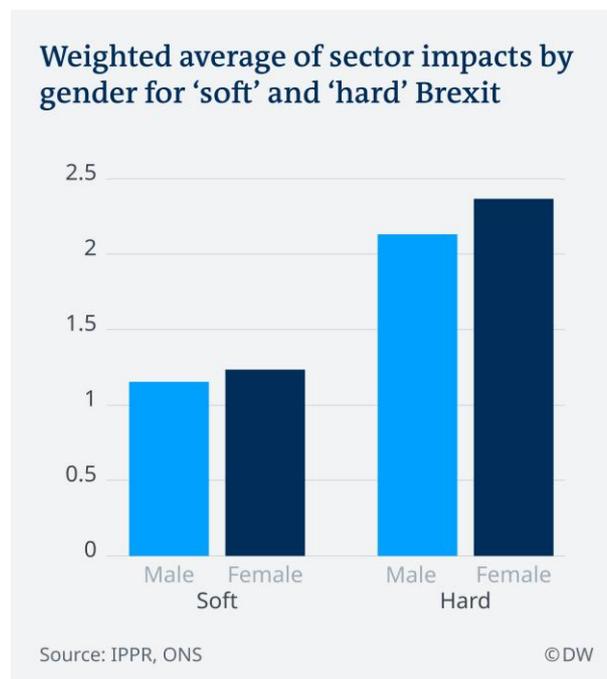
## **Women: Employment, Housing and Spending**

The majority of economists have argued that Brexit will have a negative impact on the UK economy, with a no-deal Brexit having significantly worse effects.<sup>330</sup> The WBG cites the UK Government's own estimates of the adverse economic impact of

a limited UK-EU Free Trade Agreement, of the kind suggested in the revised Political Declaration in October 2019, where GDP would decrease by 6.7% relative to staying in the EU, while it could be 5.5% to 9.5% lower under a no-deal scenario.<sup>331</sup> Furthermore, the Bank of England has warned that there was a one-in-three chance of recession due to uncertainty over Brexit, as business investment was stalling.<sup>332</sup>

Women’s organisations have argued that women are disproportionately affected by austerity and economic downturns, which may happen after Brexit.<sup>333</sup> This is because women are more likely to be living in poverty; because they earn less than men due the gender pay gap; they generally have less financial capital (i.e. savings and investments); they make up 80% of the low-paid sector workforce; they make up the majority of insecure and temporary workers; and they are less mobile due to caring responsibilities.<sup>334</sup>

The chart below suggests the gendered impacts of Brexit on sectors of the economy, under ‘soft’ and ‘hard’ Brexit scenarios.



It is therefore possible that Brexit will have a negative impact on women’s employment prospects, labour protections, access to affordable housing, and household budgets. Also, as women tend to earn less, be in a precarious employment situation (part-time, fixed-term or zero-hours), and have fewer economic resources, women are more vulnerable to any erosions in employment standards (see the Rights section above) and wage squeezes.

“Attempts to weaken regulations that hit low paid, part-time and precarious (i.e. agency) workers would therefore hit women first, and hit them hardest.”<sup>335</sup>

Women working in certain sectors of the economy that are heavily dependent on trade with the EU and have been identified as potentially vulnerable to job losses,

such as clothing and textiles that have a majority women workforce, may lose their jobs. Other sectors of the economy that are forecast to be negatively affected by Brexit, such as health and social care, are also likely to negatively impact women. For instance, women are disproportionately represented in health (constituting 77% of the workforce) and social care (where women constitute 80% of the workforce).<sup>336</sup> These are sectors that are already experiencing difficulties resulting from a decline in EU migration and resulting recruitment challenges.<sup>337</sup> With regard to housing, the WBG has examined how the current housing crisis – in which house prices have recently slumped – is hitting women the hardest.<sup>338</sup> Their research reveals:

- there is no region in England where the average home to rent is affordable for a woman on median earnings;
- women's incomes often fall over 50% short when seeking to buy a house with a typical mortgage;
- women make up 60% of housing benefit claimants;
- the majority of statutory homeless people are women (67%);
- women rough sleepers, who are less likely to access services, face specific challenges and their experience is very often linked to abuse, trauma and violence;
- Single mothers constitute 66% of all statutory homeless families with children.

While the WBG did not specifically analyse the consequences of Brexit for women's housing, it is possible that many of these problems – such as women's access to affordable housing and vulnerability to homelessness (especially for single mothers) – will be exacerbated if the economic position of women is weakened, alongside negative impacts on the construction industry and a continued freeze on benefits - in the event of Brexit.

Finally, Brexit is likely to have a widespread impact on women's spending power, who have fewer personal savings than men.<sup>339</sup> Any reductions in income caused by slower economic growth in the UK would make it difficult for women – especially single mothers who are at risk of poverty and homelessness – to manage family budgets, particularly if food and energy prices increase and GDP falls. As the director of the Women's Budget Group states,

“The impact of Brexit on consumers will be gendered because women are the main managers of family budgets and the shock-absorbers of poverty, and in attempting to shield their families from poverty's worst effects women tend to bear the brunt of the effects.”<sup>340</sup>

According to a report by the Royal Society of Arts (RSA), 43% of women in the UK would currently struggle to pay an unexpected bill of £40 (compared to 30% of men).<sup>341</sup> As a result of women's relative economic insecurity, they are more likely to fear the impact of Brexit.<sup>342</sup>

Women's consumer rights may also be impacted by the decision to repeal any EU secondary legislation on consumer protections, and the content of future trade deals.<sup>343</sup>

## **Women: Resilience**

Women are represented by a network of active, engaged and well-organised women's groups in Scotland/the UK. These groups have been proactive in researching and anticipating the possible impacts of Brexit on women's rights and welfare. In particular, the Women's Budget Group (WBG) has taken on a leadership role in conducting research, analysis and recommendations on the economic impact of Brexit on women<sup>344</sup>, while the Women's Equality Party has been raising political awareness of potential impacts.<sup>345</sup> Women also make up 34% of MPs in the UK Parliament (since the December 2019 general election) and 35% of MSPs in the Scottish Parliament<sup>346</sup> – a higher number relative to other equalities groups, though markedly lower than the proportion of women in the population (51%). Women's groups have also been politically active in demanding policy change and protections to ensure that any adverse impacts on women resulting from Brexit are mitigated. To that end, women have relatively strong political representation of their voices amongst equalities groups.

Women's groups also provide important sources of information and support to women, on issues ranging from domestic violence, to sexual harassment, to gender discrimination. These groups in Scotland include various branches of Women's Aid, Rape Crisis Scotland, the National Advisory Council on Women and Girls, Amina—the Muslim Women's Resource Centre, Engender, Saheliya, SHE Scotland, Shakti Women's Aid, Zero Tolerance, YWCA Scotland, and the Women's Centre.<sup>347</sup>

There are also generic advice services available to everyone, including women, for instance on debt management, social security benefits and legal rights and protections.<sup>348</sup> These vital publicly funded advice services are offered by local councils, statutory bodies such as the Scottish Legal Aid Board (SLAB), and third-sector providers, such as the network of Citizens Advice Bureaux.

However, the extent to which individual women are connected to these groups and networks, or are resilient to the impact of Brexit, is mixed. Not all women – in particular, disadvantaged and vulnerable women, and those with limited literacy and linguistic abilities (such as some foreign-born women) – will have access to, or representation in women’s groups, or will be able to access advice services.

Furthermore, the extent to which women are financially resilient to any adverse economic impacts of Brexit is mixed. While research has shown that women are more likely than men to be living on low-incomes or in poverty<sup>349</sup>, some women have robust financial resources and could purchase private services (healthcare, education) in the case that public services are cut, for instance. We can therefore assume that the least financially resilient women are those who have the least disposable income and are most dependent on public services. These women are likely to be facing multiple disadvantage (for instance, being a woman and being on a zero-hours contract/low-income/a single mother/homeless/minority ethnic/migrant/disabled and so on). Women facing intersectional inequalities are therefore likely to be the least resilient to any negative legal and socio-economic effects of Brexit.

## Impacts under different Brexit scenarios

The following table provides a general indication of which of the impacts on women analysed in this section are most likely to occur under each of the Brexit scenarios discussed in the report – a hard Brexit (under terms set out in the Withdrawal Agreement and Political Declaration, with no binding commitment to comprehensive level playing-field provisions), a softer Brexit (UK-EU negotiations to include strengthened level playing-field commitments and closer alignment with EU law) and a no-trade deal Brexit (the UK fails to obtain an EU trade deal and reverts back to trading on WTO rules).

	Softer Brexit	Hard Brexit	No trade deal
Loss of EU Charter/CJEU	✓	✓	✓
Loss of Pregnant Workers’ Directive		✓	✓
Loss of Agency Workers’ Directive		✓	✓
Loss of Part-time Workers’ Directive		✓	✓
Loss of Work-Life Balance Directive		✓	✓
Loss of European Citizenship	✓	✓	✓
Loss of Free Movement	✓	✓	✓
Lack of Istanbul Convention	✓	✓	✓
Cuts in benefits & public services	higher risk*	higher risk*	likely
Need to take up unpaid caring	higher risk*	higher risk*	likely
Loss of women’s funding (ESIF)	✓	✓	✓
Vulnerability to job losses	higher risk*	higher risk*	likely
Lack of affordable housing	higher risk*	higher risk*	likely
Reduced spending power	higher risk*	higher risk*	likely
Impact of food and fuel price rises	higher risk*	higher risk*	✓

\* ‘higher risk’ implies that there is a higher risk that this impact is likely to happen compared to the status quo of the UK being a full member of the EU, given the UK Government’s economic forecasts<sup>350</sup>

## Case Study: Disabled People

Disabled people make up 20% of the population in Scotland.<sup>351</sup> Disabled people's organisations have argued that Brexit will have a deleterious effect on the rights and welfare of disabled people.<sup>352</sup>

The potential adverse impacts of Brexit on disabled people in the UK has been highlighted by disabled peers in the House of Lords. On a debate on 'Brexit: Disabled People', Baroness Scott of Needham Market underlined the negative effects of the loss of EU structural funds, the potential weakening of anti-discrimination laws, the potential loss of the Blue Badge scheme and the impact on the care sector, for disabled people.<sup>353</sup> Other disabled peers also campaigned vigorously against a 'no-deal Brexit', which was considered 'disastrous' for disabled people, in particular due to impacts on social care recruitment.<sup>354</sup>

Disabled people's organisations have criticised the UK Government for failing to represent disabled people in the UK's negotiations with the UK, the lack of accessible information for disabled people on the potential impacts of Brexit, and the lack of formal impact assessments on disability.<sup>355</sup> According to Inclusion Scotland,

“disabled people are at a heightened risk [from Brexit]. They are more likely to be living in poverty, have been hardest hit by austerity which the UN has said has led to 'grave and systematic violations of their rights'”<sup>356</sup>

The potential impacts of Brexit on disabled people (both the legal and the socio-economic impacts) are summarised in the infographic below:

# Potential Social Impacts of Brexit on People with Disabilities

Legal	Socio-economic
<ul style="list-style-type: none"> <li>● Loss of EU Charter/CJEU Protections</li> <li>● Loss of European Accessibility Act</li> <li>● Loss of Agency &amp; Part Time Workers' Directives</li> <li>● Loss of Work-Life Balance Directive</li> <li>● Loss of Air Passenger Rights</li> <li>● Loss of European Citizenship</li> <li>● Loss of Free Movement Rights</li> </ul>	<ul style="list-style-type: none"> <li>● Reduced health services</li> <li>● Reduced social care services</li> <li>● Loss of Healthcare (EHIC card) and Social Security coordination</li> <li>● Loss of disability funding (ESIF)</li> <li>● Lack of accessible housing</li> <li>● Reduced transport services</li> <li>● Impact on food, fuel and medicines</li> </ul>

## Disabled People: Legal Rights

The EU has played an important role in advancing legislation that protects the rights of disabled people. The EU framework directive for equal treatment in employment and occupation went further than the UK's Disability Discrimination Act in protecting workers from direct and indirect discrimination based on disability, requiring the UK to adapt its legislation in 2004.<sup>357</sup> The UK was also obliged to adapt its disability legislation in 2008 as a result of a Court of Justice of the European Union (CJEU) ruling that it is unlawful to discriminate against employees because of their relationship to a disabled person.<sup>358</sup> EU membership has therefore provided disabled people with a "large degree of protection... because of its directives on equality" and in particular, protection from discrimination.<sup>359</sup>

The UK's decision that the EU Charter of Fundamental Rights will cease to apply after Brexit will potentially have an adverse effect on the rights of disabled people. The Charter includes many social and economic rights, such as free-standing rights to non-discrimination and rights to fair and just working conditions, which the UK's domestic law and Human Rights Act currently do not cover.<sup>360</sup> For instance, Article 21 of the Charter prohibits discrimination on various grounds, including disability and Article 26 recognises the right of disabled people to "benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community."<sup>361</sup>

Furthermore, Brexit would entail a loss of recourse to the Court of Justice of the European Union (CJEU) for disabled people. The CJEU has played an important role in protecting the rights of disabled people from workplace discrimination, and

its rulings have led to increased sanctions and compensation for disabled claimants. The Charter is upheld by the CJEU and, once the UK leaves the EU, the Charter falls away and UK courts are no longer subject to CJEU rulings, there is a possibility that “if disabled people wished to try and strike down UK legislation as incompatible with rights under CFR under EU law – that avenue may not be available after the vote to leave.”<sup>362</sup> Therefore, Brexit implies a loss of recourse to the CJEU for disabled people, which would remove the EU’s ‘holding-to-account’ mechanisms as UK courts and tribunals would no longer be able to refer cases to the CJEU.<sup>363</sup>

Disabled people may also potentially lose certain rights that are not embedded in EU primary legislation, and which are more vulnerable to being repealed or diluted. For instance, the EU Air Passenger Rights regulation, which ensures the accessibility of vehicles and assistance for disabled passengers on board, is not currently embedded in UK domestic law.<sup>364</sup>

Furthermore, disabled people will potentially lose out on the EU’s development of its equality legislation in the future. According to the charity Independent Living, “people with disabilities would not benefit from any further directives or regulations that the EU issued on disability rights and would be reliant on domestic legislation and common law keeping pace with the advancement of the rights of people with disabilities.”<sup>365</sup>

One such piece of legislation is the European Accessibility Act, which was proposed by the EU in 2015. The Act aims to remove accessibility barriers that disabled people face in their day-to-day lives, by establishing European-wide requirements to make products and services accessible, including computers, ATMs, ticketing machines, smartphones, TV equipment, passenger transport, banking services and e-books. For example, “ticket machines at train stations would be required to allow for the screen to be magnified or for the information to be provided in different colours or alternative formats.”<sup>366</sup> However, disabled people are unlikely to benefit if the UK has left the EU by the time the Act has passed.<sup>367</sup>

## **Disabled People: Public Services and Funding**

Disabled people have a higher-than-average need to access public services, in particular, health and social care services. Therefore, if there are any reductions in public services after Brexit, then disabled people will be disproportionately affected by such cuts.

One of the greatest concerns of disabled people’s organisations is the impact of Brexit on health and social care services, upon which disabled people and long-term illnesses rely.<sup>368</sup> There are also significant recruitment problems in both these sectors<sup>369</sup>, partly caused by a decline in the number of EU nationals remaining in, or coming to, the UK, and there are fears that these recruitment shortages will get worse post-Brexit when EU free movement ends.<sup>370</sup>

For instance, Inclusion Scotland is concerned that post-Brexit changes to the immigration rules are “likely to impact on the availability of personal assistants (PAs), which could see disabled people “slide back” into depending on institutions and being unable to live independently at home.”<sup>371</sup> Furthermore, there is a possibility that some current EU nationals living in the UK and employed as PAs will not meet the requirement for settled status, and that disabled people may “not be able to recruit replacements if restrictions are placed on immigration from the EU”.<sup>372</sup> This would lead to a reduction in independent living, affecting disabled people’s quality of life, access to employment or volunteering, and wellbeing, and may require disabled people to go into residential care homes.

Given the possibility that a no-trade deal Brexit, which would erect trade barriers between the UK and EU, could potentially cause disruptions to medicine supplies, DPOs are concerned that this could have “serious implications” for disabled people’s access to vital medicines and medical technologies.<sup>373</sup> A Scottish MP criticised the UK Government for failing to take the needs of disabled people into account in their Brexit contingency planning, arguing that ““We already know there will be huge potential impact on access to medications and medical aids alongside the negative impact on staff in social care, all of which will impact dramatically upon the most vulnerable.”<sup>374</sup>

There are also concerns about the accessibility of public and commercial services for disabled people after Brexit, given that many accessibility requirements are derived from EU law, including secondary legislation that is not currently on the UK’s statute books.<sup>375</sup> Independent Living in Scotland has listed several EU legal protections afforded to disabled people through EU membership “which may cease to be applicable” after Brexit:

- the European Union Employment Equality Directive, which requires Member States to prohibit disability discrimination in employment;
- the European Union Air Passenger Rights Regulation (together with similar regulations on rail, ship and coach travel), which requires disabled people to be given assistance when travelling by plane in EU and European Economic Area (EEA) countries
- the European Union Medicinal Products for Human Use Directive, which requires the packaging of medicinal products to include Braille labelling
- the European Union Public Procurement Directives, which require public bodies to include accessibility in technical specifications<sup>376</sup>

The potential loss of EU-wide public services will also be likely to disproportionately affect disabled people. This includes the European Health Insurance Card (EHIC), which entitles EU citizens travelling to other members states to access free or reduced-cost healthcare. The EU has also created an EU Disability Card, which ensures disabled people have equal access to benefits across EU Member State borders, in the areas of culture, leisure, sport and transport. Disabled people in the UK also currently benefit from the Blue Badge parking scheme, which is an EU-wide reciprocal scheme that provides disabled people with parking concessions for

on-street parking, allowing them to park closer to their destination in any EU country.<sup>377</sup>

Will these schemes be retained in the UK after Brexit? So far, it appears that the EHIC scheme would end in the UK under a no-trade deal Brexit, however, the card may potentially be included in future UK-EU negotiations.<sup>378</sup> With regard to the EU Disability Card scheme, the UK has not (yet) signed up to this, and there is no indication that it will do so after Brexit. Finally, the UK Government has not yet issued a statement on whether or not the UK Blue Card may be used in the EU27 after Brexit. However, one journalist has conducted an investigation into the Blue Card scheme, finding that the UK Government has already started issuing Blue Cards without the EU symbol.<sup>379</sup> Furthermore, it appears that EU reciprocity for the Blue Card will be on a case-by-case basis after Brexit, with some EU27 countries recognising the UK Blue Card and others will not, while UK local authorities will have discretion over whether they recognise Blue Cards of EU nationals.<sup>380</sup>

Disabled people living in the EU will be affected by any decision to remove social security system cross-border reciprocal arrangements post-Brexit, which is most likely in a no-trade deal scenario. Disabled people in particular need access to welfare support systems, in order to participate in society and the labour market.

Finally, there are deep concerns amongst DPOs about the impact of ending European funding on disabled people after Brexit. According to the Academic Network of European Disability Experts, almost one-fifth of the European Structural and Investment Funds (ESIF) are spent on projects directly supporting disabled people. The EU funds have thus provided extensive financial support for disabled people in the UK to date. Inclusion Scotland have argued that disabled people's organisations in Scotland are reliant on this EU funding, especially in providing employability and skills support to disabled people.<sup>381</sup>

While the UK Government has proposed that the ESIF funding will be replaced through a 'Shared Prosperity Fund' after Brexit, DPOs are concerned that there could be potential gaps in funding for equalities initiatives, including supporting disabled people. For instance, the Voluntary Organisations Disability Group has voiced concerns about the continuity of funding for disability programmes after Brexit.<sup>382</sup>

## **Disabled People: Employment, Housing and Spending**

Disabled People's Organisations are concerned about several potential impacts of Brexit on disabled people's employment prospects, housing, quality of life and spending power:

- the potential loss of employment protections for disabled people
- the potential loss of health and care support – which will affect disabled people's quality of life, wellbeing and ability to live independently
- the potential reduction in accessible housing
- the impact of food and fuel price rises on disabled people

On employment, the majority of UK employment law derives from EU law, which provides minimum standards for general and specific protections for disabled people. This includes the EU's introduction of no statutory limits on compensation for disability discrimination claims, which has enabled disabled people in the UK to be compensated in full for harm caused as a result of disability discrimination.<sup>383</sup> There are concerns that, after Brexit, disabled people will lose this right and a statutory limit would be re-introduced in the UK.

The potential impact of Brexit on the health and social care sector could have profoundly negative effects on the ability of disabled people to live independently. DPOs are concerned that there are falling numbers of Personal Assistants (PAs) who support disabled people to live independently, due to reductions in EU migration<sup>384</sup>, and that this situation could worsen when free movement ends after Brexit and salary thresholds are introduced for EU nationals. This could mean that a larger number of disabled people will have to move into residential care homes and would no longer have the personal support in place to work or to volunteer.

Brexit has been forecast to have a continued negative impact on the construction sector<sup>385</sup>, again, due to a potential labour market shortage resulting from declining numbers of EU nationals. This may lead to a reduction in house building, including a reduction in accessible and adapted house-building, which would give disabled people fewer housing options.

Disability is strongly associated with poverty, "because disability brings with it extra costs which reduce the resources available relative to non-disabled people, and because it often reduces the capacity to work."<sup>386</sup> As a result, any increase in food or energy prices, as a result of a post-Brexit economic downturn or no-trade deal Brexit, would disproportionately affect disabled people, who are more likely than average to be on low-incomes. Furthermore, as Inclusion Scotland reminds us, some disabled people are restricted to special diets, which may be especially impacted by any food shortages or an increased reliance on foodbanks.<sup>387</sup>

## **Disabled People: Resilience**

Disabled people are represented by a network of active, engaged and well-organised disabled people's organisations in Scotland/the UK. These groups have also been proactive in researching and anticipating the possible impacts of Brexit on disabled people. In particular, Disability Rights UK – at the UK level – and Inclusion Scotland – at the Scottish level – have produced extensive research, analysis and recommendations on how to mitigate the potential adverse effects of Brexit on disabled people. The Voluntary Organisations Disability Group also provides an important voice for organisations across the voluntary sector who work with disabled people. However, when it comes to parliamentary representation, disabled people only make up 0.8% of MPs in the UK Parliament (5 disabled MPs out of a total of 650 were elected in the 2019 general election)<sup>388</sup>, and only 1 MSP in the Scottish Parliament identifies as disabled (0.8% of MSPs since 2016).<sup>389</sup> Furthermore, there are generally low levels of disabled people across public life

(councillors, public board chairs, commissioners)<sup>390</sup>, suggesting that disabled people have a smaller public platform to voice their concerns and progress disability equality objectives.

Disabled people's organisations also provide important sources of information and support to disabled people, including public helplines for disabled students, advice on hate crime reporting and independent living, and general guidance on legal protections, social security benefits and public services for disabled people. These groups in Scotland include Inclusion Scotland—the National Disabled People's Organisation, Disability Equality Scotland, Independent Living in Scotland, Capability Scotland, Disability Agenda Scotland, People First (Scotland), Vox—Voices of Experience, Self-Directed Support Scotland, the Scottish Association for Mental Health, and the Mental Health Foundation Scotland.<sup>391</sup>

There are also generic advice services available to everyone, including disabled people, for instance on debt management, social security benefits and legal rights and protections. These vital publicly funded advice services are offered by local councils, statutory bodies such as the Scottish Legal Aid Board (SLAB), and third-sector providers, such as the network of Citizens Advice Bureaux.

However, like women (as we saw above) and other people with protected characteristics, the extent to which disabled people are connected to these groups and networks, or are resilient to the impact of Brexit, is mixed. Not all disabled people have diagnosed, or sought help and support for, their disability. Not all disabled people have access to the resources available (in particular, older disabled people may have more difficulty accessing online resources). And not all disabled people will be aware of the research and recommendations being put forward by disabled people's organisations.

Furthermore, the extent to which disabled people are financially resilient to any adverse economic impacts of Brexit is mixed. While research has shown that disabled people are disproportionately represented among low-income groups<sup>392</sup>, we can also expect that some disabled people have sufficient financial resources to weather any economic downturns. Like women, then, we can assume that the least financially resilient disabled people are those who have the least disposable income and are most dependent on public services. Furthermore, disabled people facing multiple disadvantages – for instance, disabled women, disabled people on precarious employment contracts, disabled minority ethnic people – will face multiple socioeconomic and legal impacts of Brexit, reducing their overall resilience to these.

## **Impacts under different Brexit scenarios**

The following table provides a general indication of which of the impacts on disabled people analysed in this section are most likely to occur under each of the Brexit scenarios discussed in the report – a hard Brexit (withdrawal under the terms of the Withdrawal Agreement and Political Declaration, with no binding commitment to comprehensive level playing-field provisions), a softer Brexit (UK-EU negotiations to include strengthened level playing-field commitments and closer

alignment with EU law) and a no-trade deal Brexit (the UK fails to obtain an EU trade deal and reverts back to trading on WTO rules).

	Softer Brexit	Hard Brexit	No trade deal
Loss of EU Charter/CJEU	✓	✓	✓
Loss of EU Air Passenger Rights		✓	✓
Loss of European Accessibility Act		✓	✓
Loss of Agency Workers' Directive		✓	✓
Loss of Part-time Workers' Directive		✓	✓
Loss of Work-life Balance Directive		✓	✓
Loss of European Citizenship	✓	✓	✓
Loss of Free Movement rights	✓	✓	✓
Reduced social care services	higher risk*	higher risk*	likely
Reduced health services	higher risk*	higher risk*	likely
Reduced transport services	higher risk*	higher risk*	likely
Disruption to medicines	higher risk*	higher risk*	✓
Loss of EHIC	✓	✓	✓
Lack of EU social security rights	✓	✓	✓
Loss of disability funding (ESIF)	✓	✓	✓
Lack of accessible housing	higher risk*	higher risk*	likely
Impact of food and fuel price rises	higher risk*	higher risk*	✓

\* 'higher risk' implies that there is a higher risk that this impact is likely to happen compared to the status quo of the UK being a full member of the EU, given the UK Government's economic forecasts<sup>393</sup>

## Case Study: Minority Ethnic People

Minority ethnic groups make up 4% of Scotland's population.<sup>394</sup> According to several charities, Brexit is likely to have a negative impact on minority ethnic communities – in particular, their household incomes, spending power, career prospects and legal rights.<sup>395</sup> Furthermore, since the EU referendum in June 2016, there has been evidence of rising levels of racism, xenophobia and intolerance. Though, as indicated earlier, the marked rise in recorded hate crime since the 2016 EU referendum in England and Wales has not been reported in Scotland or Northern Ireland. However, the UN Special Rapporteur on Racism has identified a Brexit-related growth in “explicit racial, ethnic and religious intolerance” and a stark increase in hate crimes across the UK since the referendum.<sup>396</sup> A nationwide survey by Opinium in May 2019 reveals that 71% of people from ethnic minorities have experienced racial discrimination (an increase from 58% in January 2016) and that online racism has doubled since 2016.<sup>397</sup>

However, despite these real and potential impacts of Brexit on minority ethnic people, the Runnymede Trust has complained that “Britain's ethnic minorities have not featured much in the Brexit debate.”<sup>398</sup> Minority ethnic organisations, such as Race on the Agenda, argue that “their voice and concerns have been missing from both the Brexit campaign and negotiations” and consultations or impact assessments have been lacking.<sup>399</sup>

The Runnymede Trust also analysed the implications of the UK Government's earlier Withdrawal Agreement (October 2019) for ethnic minorities. The deputy director of the trust argues that the deal 'harms' ethnic minorities by weakening equalities protections and worker's rights, and any negative economic impact of the proposed deal, which could reduce income per capita by 2.5%, would hit ethnic minorities, women and other people on lower and insecure incomes hardest, as they are "less able to buffer reductions in income."<sup>400</sup>

The potential impacts of Brexit on minority ethnic people (both the legal and the socio-economic impacts) are summarised in the infographic below:

## Potential Social Impacts of Brexit on Black and Minority Ethnic People

Legal	Socio-economic
<ul style="list-style-type: none"> <li>● Loss of EU Charter/CJEU Protections</li> <li>● Loss of Part-Time Worker's Directive</li> <li>● Loss of Agency Workers' Directive</li> <li>● Loss of Work-Life Balance Directive</li> <li>● Loss of European Citizenship</li> <li>● Loss of Free Movement Rights</li> </ul>	<ul style="list-style-type: none"> <li>● Cuts in benefits and public services</li> <li>● Impact of increased racism and hate crimes</li> <li>● Reduced spending power</li> <li>● Discrimination against EU nationals of colour</li> <li>● Vulnerability to job losses</li> <li>● Lack of affordable housing</li> <li>● Loss of BAME funding (ESIF)</li> </ul>

### Minority Ethnic communities: Legal Rights

People from a minority ethnic background currently enjoy – along with other equalities groups – extensive rights and protections under EU legislation. EU employment legislation that protects individuals from discrimination is especially important to minority ethnic communities, given their experiences of structural discrimination in the workplace. However, while the bulk of EU equalities laws are embedded in primary legislation in the UK – through the Equality Act – and will continue to offer protections to minority groups after the UK leaves the EU, a number of EU rights and protections are spread among secondary legislation, regulations and CJEU case law, which are more vulnerable to being repealed post-Brexit.

For instance, EU secondary legislation that is important to people from a minority ethnic background include flexible workers' provisions, including the Part-time

Workers' Directive and the Agency Worker's Directive, which protect the rights of people on part-time, agency or zero-hours contracts. (Alongside women, people from minority ethnic communities are more likely to be on part-time, temporary or zero-hours contracts<sup>401</sup>). There is a concern that, without the binding force of EU law – provided through the European Charter of Fundamental Rights and overseen by the CJEU – it may be possible that these protections could be amended and retracted after Brexit, given the antipathy of some UK officials to such Directives.<sup>402</sup>

The charity Race on the Agenda is particularly concerned that legislation protecting people with protected characteristics from workplace discrimination could be rolled back after Brexit. This would be especially concerning to people from a minority ethnic background, as:

“BAME [Black, Asian and Minority Ethnic] Britons already face widespread discrimination and institutionalised racism in the work place. Without the protection of legislation, the situation could become significantly worse.”<sup>403</sup>

The rights of minority ethnic people with other equalities characteristics – such as minority ethnic women and disabled minority ethnic people – could also lose other EU protections, as discussed above. The reduction of any workplace protections for minority ethnic communities could further exacerbate issues of employment security, poverty and financial insecurity, as we will discuss below.

## **Minority Ethnic communities: Public Services and Funding**

People from minority ethnic backgrounds are amongst the highest users of public services and would therefore be disproportionately affected by any post-Brexit cuts to public spending.

“BAME [Black, Asian and Minority Ethnic] people are more likely to earn less, own fewer assets and have lower household resources... it is local authorities in the most deprived areas, where BAME people are more likely to live, that have suffered the greatest cuts to spending.”<sup>404</sup>

As discussed earlier, several economic forecasts predict a fall in GDP and an economic downturn following Brexit (which could be exacerbated under a no-trade deal Brexit scenario), which could lead to reductions in government spending. If this happens, minority ethnic people – who are disproportionately reliant on public services – including schools, hospitals, transport and education – will be negatively affected.

In addition to being amongst the highest users of public health and social services<sup>405</sup>, people from a minority ethnic background are also more likely to work in these areas.<sup>406</sup> For instance, minority ethnic people have a high representation in healthcare, education, and social care services.<sup>407</sup> Minority ethnic people are therefore more vulnerable to any job losses in these sectors.

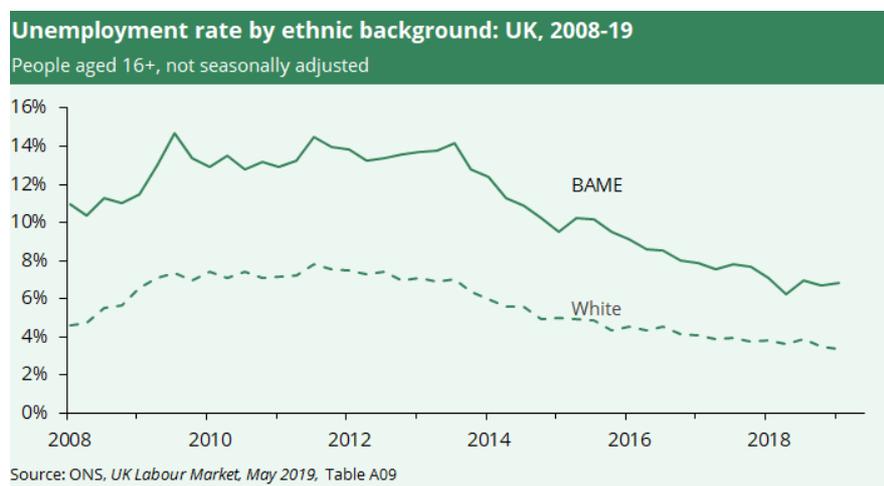
Minority ethnic communities are also likely to lose out from the UK's withdrawal from the European Structural and Investment Funds (ESIF) programme. Minority

ethnic people are included as a specific target group for funding, especially under the ESF rules<sup>408</sup>, and ESIF support for minority ethnic organisations has led to the creation of “inventions and infrastructure that supported BAME men and women to get work, helped families make ends meet, protected those who were suffering from domestic violence, and provided young people with supplementary education and training.”<sup>409</sup> It is currently uncertain if the UK Government’s proposed Shared Prosperity Fund would match the same level of funding to organisations to support the social inclusion of minority ethnic communities, owing to a lack of detail about the operation of the proposed fund.<sup>410</sup>

## Minority Ethnic communities: Employment, Housing and Spending

It is possible that Brexit could have an adverse impact on the employment, housing situation and consumer spending power of minority ethnic people.<sup>411</sup>

According to the Deputy Director of the Runnymede Trust, a large number of minority ethnic individuals and families are “in low paid and insecure work, spend a greater proportion of income on rent and have very little disposable income for food.”<sup>412</sup> Research by the Trades Union Congress and Resolution Foundation has found that black men and women are more likely to be in precarious employment than white people, including agency and seasonal work.<sup>413</sup> Furthermore, people from Black, Asian and Minority Ethnic (BAME) backgrounds are twice as likely to be unemployed than white people in the UK (as the chart below shows). These factors make the welfare and living standards of minority ethnic communities far more susceptible to any economic downturn or austerity measures.



Research has also revealed that minority ethnic workers are clustered in particular industries and sectors, which may be vulnerable to Brexit due to their reliance on EU trade. These include the clothing industry, the health and social work sector, and plant and machine operators. For instance, Pakistani and Bangladeshi people are most likely to work in distribution, hotels and restaurants.<sup>414</sup> Pakistani and Bangladeshi men are furthermore twice as likely as white British men to work as plant and machine operators, which are vulnerable to Brexit job losses, “and are less likely to have skills which are transferable to other sectors.”<sup>415</sup>

Black people are more likely to work in the public sector, especially black women.<sup>416</sup> This makes them more vulnerable to any cuts in the public sector that may lead to job losses. There is also a predominance of women, especially Black African and Caribbean women, working in health and social work, which “has made them more vulnerable to being engaged on zero-hours contracts and in other forms of temporary work, with such arrangements common in this industry grouping.”<sup>417</sup> Across these sectors, minority ethnic women predominate in lower-paid/lower-skilled occupations and are under-represented in senior management.

A recent study revealed that a majority of minority ethnic people fear that Brexit will have a negative impact on their career progression.<sup>418</sup> The research, which surveyed over 2000 adults across the UK, was commissioned by the Equality Group. It found that over half (52%) of minority ethnic respondents believe that Brexit will negatively impact their career progression, compared to 16% of non-minority ethnic respondents. Furthermore, the study found that 62% of minority ethnic respondents are concerned about the impact of Brexit on professional and societal culture, compared to 35% of non-minority ethnic respondents.

These concerns reflect a climate of increased racism and xenophobia in the UK, where there are increased tensions surrounding the notion of ‘Britishness’ and who is considered to belong to this identity in the wake of Brexit. Increased racism is unlikely to help the job prospects of minority ethnic people, who already experience historical structural discrimination in the workplace, and it will likely lead to further discrimination against minority ethnic communities. The Head of Diversity and Inclusion at the House of Commons has, for instance, has been reported as stating that the bullying and harassment of minority ethnic people in the workforce has increased by 23% since the EU referendum in 2016, as a direct result of the Leave vote.<sup>419</sup>

Brexit-related discrimination against minority ethnic people is already happening to some extent under the UK’s increasingly restrictive immigration regime. Some evidence suggests that under recent changes to immigration measures in the UK, landlords have been racially discriminating against minority ethnic Britons through the ‘Right to Rent’ scheme. This law requires landlords to check the immigration status of potential tenants, and it was found that landlords had been discriminating against minority ethnic Britons and foreign-born residents, in contravention to equalities and human rights legislation that protects people from discrimination.<sup>420</sup>

EU nationals of colour face additional potential forms of discrimination, as they experience the “further challenge of looking visibly different. As a result, they are more likely to be asked for identification to access employment, housing and healthcare.”<sup>421</sup>

Minority ethnic people are also more vulnerable to any restrictions to housing availability following a potential post-Brexit economic downturn. The Race Disparity Audit revealed that minority ethnic groups are less likely to own their homes, and more likely to rent social housing, than average.<sup>422</sup> Furthermore, the study found that overcrowding disproportionately affects minority ethnic households, and the number of minority ethnic households registering as homeless has increased.

Finally, any economic downturn resulting from Brexit is likely to impact the socioeconomic position, spending power and wellbeing of minority ethnic people. As we discussed earlier, minority ethnic people are likely to be lower-paid, have less disposable income, and spend more of their income on daily essentials than non-minority ethnic people. Furthermore, they are more likely to receive ‘top-ups’ to their wages from Working Tax Credits and help with housing costs.<sup>423</sup> Any rise in food and energy prices, cuts to benefits and public services, and restriction to flexible employment protections, are therefore likely to have a disproportionately negative effect on minority ethnic people.

## **Minority Ethnic communities: Resilience**

Minority ethnic people are represented by a dispersed network of groups in Scotland/the UK. Some of these groups have been active in developing research, analysis and recommendations for how to mitigate potential adverse effects of Brexit on minority ethnic communities. In particular, the Runnymede Trust has made important contributions to the Brexit debate as a vocal advocate of the rights of minority ethnic communities, the charity Race on the Agenda have produced an important analysis on Brexit impacts, and the Institute of Race Relations have been tracking increases in racism and hate crimes against minority ethnic communities since Brexit. As the category ‘minority ethnic’ tends to comprise a number of different groups – such as black, Muslim, migrant, refugee, Gypsy/Traveller and visible minorities – there is more of a challenge to capture diverse voices and potential impacts. This is aided by the activities of organisations that focus on particular minority ethnic groups, such as the Muslim Council of Scotland, the Scottish Refugee Council and Sikh Sanjog, for instance.

In the UK Parliament, 10% of MPs are from non-white ethnic backgrounds (since December 2019) and they make up 5.8% of the members of the House of Lords, while minority ethnic people comprise 13.8% of the UK population.<sup>424</sup> No Scottish MPs are from minority ethnic backgrounds. In the Scottish Parliament, two MSPs (1.6% of all MSPs) are from minority ethnic backgrounds, while minority ethnic people make up 4% of the Scottish population.<sup>425</sup>

Minority ethnic organisations also provide important sources of information and support to minority ethnic groups, including legal advice and representation,<sup>426</sup> employability support,<sup>427</sup> advice on moving towards and into work,<sup>428</sup> and mental health and wellbeing support for minority ethnic women and girls.<sup>429</sup> Minority ethnic groups in Scotland including BEMIS – national umbrella body supporting the development of the ethnic minorities voluntary sector in Scotland, CEMVO Scotland, Saheliya, Amina WMRC, Ethnic Minorities Law Centre, Amina, Shakti Women’s Aid, Andescot, and REACH Community Health Project.<sup>430</sup>

There are also generic advice services available to everyone, including minority ethnic people, for instance on debt management, social security benefits and legal rights and protections. These vital publicly funded advice services are offered by local councils, statutory bodies such as the Scottish Legal Aid Board (SLAB), and third-sector providers, such as the network of Citizens Advice Bureaux.

However, the extent to which minority ethnic people are connected to these groups, able to access support networks, or are resilient to the impact of Brexit, is mixed. While some minority ethnic people are active in community networks and engaged in/aware of political campaigns, those minority ethnic communities who lack literacy, economic resources and time to dedicate to self-education – in particular, people on precarious employment contracts, single mothers, refugees and asylum seekers – may not have the resources to access this support/information.

Out of the three case studies analysed, people from minority ethnic communities are less likely to be financially resilient to any adverse economic impacts of Brexit. This is because, out of all ethnic groups in the UK, people from Asian, Black or other non-white ethnic groups were most likely to be in persistent low-income positions.<sup>431</sup> We can also assume that minority ethnic people facing multiple disadvantages – for instance, women, people on precarious employment contracts, migrants, and disabled people from minority ethnic backgrounds – will face multiple legal and economic impacts of Brexit, reducing their overall resilience to these.

## Impacts under different Brexit scenarios

The following table provides a general indication of which of the impacts on minority ethnic people analysed in this section are most likely to occur under each of the Brexit scenarios discussed in the report – a hard Brexit (withdrawal under the terms of the Withdrawal Agreement and Political Declaration, with no binding commitment to comprehensive level playing-field provisions), a softer Brexit (UK-EU negotiations to include strengthened level playing-field commitments and closer alignment with EU law) and a no-trade deal Brexit (the UK fails to obtain an EU trade deal and reverts back to trading on WTO rules).

	Softer Brexit	Hard Brexit	No trade deal
Loss of EU Charter/CJEU	✓	✓	✓
Loss of Part-time Workers' Directive		✓	✓
Loss of Agency Workers' Directive		✓	✓
Loss of Work-Life Balance Directive		✓	✓
Loss of European Citizenship	✓	✓	✓
Loss of Free Movement rights	✓	✓	✓
Cuts in benefits & public services	higher risk*	higher risk*	likely
Loss of minority ethnic funds (ESIF)	✓	✓	✓
Vulnerability to job losses	higher risk*	higher risk**	likely
Limited career progression	✓	✓	✓
Impact of increased racism	✓	✓	✓
Discrimination against EU BAME	✓	✓	✓
Lack of affordable housing	higher risk*	higher risk*	likely
Reduced spending power	higher risk*	higher risk*	likely
Impact of food and fuel price rises	higher risk*	higher risk*	✓

\* 'higher risk' implies that there is a higher risk that this impact is likely to happen compared to the status quo of the UK being a full member of the EU, given the UK Government's economic forecasts<sup>432</sup>

# Conclusion

This report has examined 137 potential social and equalities impacts resulting from Brexit. While there is still great uncertainty about the exact form that Brexit will take (‘soft’ or ‘hard’, with or without a comprehensive trade agreement), the effects will likely be felt across all equalities groups in Scotland/the UK.

Some of these impacts will be shared across different groups of people. In particular, if the majority of economic forecasts are correct and the UK’s economy will suffer post-Brexit, the negative socio-economic effects of the UK’s withdrawal from the EU will impact across all equalities groups that are disproportionately represented in the low-income bracket.

This category includes: women, disabled people, older people, minority ethnic communities, people from a migrant background, people with caring responsibilities, care-experienced young people, refugees and asylum seekers, offenders and ex-offenders, homeless people, Gypsy/Traveller communities, precarious workers, and people with substance abuse issues. These groups are more likely to rely on public services and benefits and have less disposable income and spending power.

The socio-economic impacts of Brexit across equalities groups – with regard to their access to public services (especially health and social care), their ability to buy daily essentials in the case of price rises, and their ability to access affordable housing – are likely to be widespread and, according to economic analysis, most likely to happen. In some cases, i.e. for those living in poverty or suffering job losses, these impacts will also be deeply felt.

There are also likely to be legal impacts of Brexit across equalities groups, with regard to the rights and protections they currently enjoy, and which they may have otherwise enjoyed in the future had the UK not decided to leave the EU. At a general level, all equalities groups are likely to experience the loss of the EU Charter of Fundamental Rights – which guarantees a freestanding right to non-discrimination – and recourse to the rulings and case law of the European Court of Justice. This impact is likely to be widespread across equalities groups and, given that the UK Government has made it clear that the Charter and CJEU will have no jurisdiction in the UK after Brexit, most likely to happen.

Equalities groups are also – across the board – likely to feel the widespread loss of European Structural and Investment Funds (ESIF), from which they have greatly benefitted over the years. It is as yet unclear whether equalities groups will continue to be funded in the same way, and at the same level, through the UK’s proposed post-Brexit Shared Prosperity Fund.

Different equalities groups will also feel the effects of the potential amendment or repeal of specific piece of EU legislation. For instance, women would be adversely affected by the loss of the EU Pregnant Workers’ Directive. Several equalities groups that have high representation amongst precarious workers (women, minority

ethnic people, carers, disabled people) would be adversely affected by the loss of the EU Agency Workers' Directive. Disabled people would be adversely affected by the loss of the EU Passenger Rights Directive and any decision not to implement the European Accessibility Act. Mothers, fathers and carers are also likely to lose out on the decision not to implement the Work-Life Balance Directive. Refugee children will be adversely affected by their loss of rights to family reunion in the UK. These impacts will be widespread and deeply felt by people who are discriminated against as a result of their loss.

However, the impacts of Brexit will be gravest for people who face multiple inequalities. For instance: a disabled EU woman on a fixed-term contract, a minority ethnic single mother on a low-income, a man with a mental health disability who is homeless and has substance abuse problems, or a young, care-experienced member of the LGBTQIA+ community. People with several protected or personal characteristics who face multiple disadvantage will likely face the deepest socio-economic impacts and the widest forms of discrimination in the workplace and society at large. It is these groups that the Scottish Government should consider focussing on first and foremost, to mitigate any adverse effects of Brexit, as they are also the groups least likely to be resilient to changes.

To take one example, minority ethnic women – especially those from a non-Christian religious background – have faced mounting discrimination hostility since the EU referendum in June 2016 and would likely suffer the most from any economic downturn post-Brexit. Minority ethnic women have reported a sizable increase in racial discrimination (from 61% in 2016 to 74% in 2019). There has been a rise in Islamophobic and sexist incidents, and EU migrant women have also reported feeling more prone to racial harassment.<sup>433</sup> Studies have also shown that austerity and public services cuts will disproportionately impact minority ethnic women “as a result of structural inequalities, which means they earn less, own less and have more responsibility for unpaid care and domestic work”.<sup>434</sup>

This report strongly recommends, therefore, that future research on the social impacts of Brexit should adopt an intersectional perspective, by examining the impacts on vulnerable people facing multiple inequalities. While this type of research is more complex to measure and analyse it is here that the impacts of Brexit will likely be most deeply felt.

As Baroness Burt of Solihull asked in the House of Lords,

“What work has been done to see what happens when a number of these protected characteristics overlap, for example, in the case of a pregnant woman from a minority in a low-paid job? This is called intersectionality, and we know that the people affected suffer disproportionately, but it seems to have been consigned to the “too difficult” box when it comes to measuring the effects of government legislation.”<sup>435</sup>

On a final note, it is worth stressing that while this report has sought to identify a broad range of potential impacts of Brexit, some of these impacts are more likely to occur than others under different Brexit scenarios. While some impacts appear to be certain at the time of writing – resulting from the clauses contained in the revised EU (Withdrawal Agreement) Bill and the UK Government’s statements that it does or does not intend to stay affiliated to certain EU laws, funding and institutions – other impacts (for instance the loss of certain protections, or socioeconomic impacts) are as yet unclear, and will depend very much on negotiations between the UK and the EU in the coming months.

## Sources

The data collected for this social research publication is available in the source list below:

- 
- <sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/840656/Political\\_Declaration\\_setting\\_out\\_the\\_framework\\_for\\_the\\_future\\_relationship\\_between\\_the\\_European\\_Union\\_and\\_the\\_United\\_Kingdom.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840656/Political_Declaration_setting_out_the_framework_for_the_future_relationship_between_the_European_Union_and_the_United_Kingdom.pdf)
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