Independent Chief Inspector of Borders and Immigration

An inspection of the Home Office's processing of family visas

September 2021 – February 2022

David Neal

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Our purpose

To help improve the efficiency, effectiveness and consistency of the Home Office's border and immigration functions through unfettered, impartial and evidence-based inspection.

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Foreword

For those seeking permanent residence as family members, applications for indefinite leave to remain (ILR) under the routes contained in Appendix FM are complex, time consuming and expensive. Pledges by the Home Office to simplify the application process and make it more accessible have yet to yield results for applicants.

The numbers indicate that the vast majority of applications that reach the ILR stage are granted, so delay, complexity and barriers to full integration into our society seem unnecessary.

I hope that the focus on customer services as part of the transformation of the Home Office ('One Home Office') will go some way to address the complexity of the application process. In particular, I find the 6-month service standard difficult to reconcile when compared with the shorter service standards for entry clearance and further leave to remain applications on the same route. The lack of an effective triage system, which results in straightforward applications (95% of which will be granted ILR) sometimes being delayed until the 5-month point, is unfair and needs to be fixed quickly. I hope that the productivity improvements brought in by the move to the Atlas system will contribute to reducing processing times.

On the positive side, following the pandemic, it is heartening to see decision makers employing evidential flexibility, rather than automatically refusing applications.

Given that it is 10 years since Appendix FM was introduced, the Home Office should understand the impact of the 10-year route on specific groups to inform a refresh of the Equality Impact Assessment.

This report makes 4 recommendations to the Home Secretary and was sent to her on 20 May 2022.

David Neal

Independent Chief Inspector of Borders and Immigration

1. Purpose and scope

1.1 This inspection examined the Home Office's processing of family visas with a focus on indefinite leave to remain (ILR) applications, which are submitted via the 'settlement marriage' (SET(M)) form.

1.2 The inspection examined:

- the efficiency of the process and the quality of decisions made on applications for ILR, as the partner or parent of a British or settled person
- the accessibility of the application process for applicants
- the impact on an applicant (and their family) when an application for settlement is not successful and instead they are placed on a 10-year route, and whether this decision is proportionate
- what assurances are in place to ensure that recommendations from the 'Windrush Lessons Learned Review'[1] are being considered, and that discretion is being exercised in decision-making where appropriate, putting the applicant at the forefront of the process

1.3 This inspection did not consider:

- the entry clearance process
- the further leave to remain process
- the ILR process for adult dependent relatives
- ILR applications in cases of domestic violence (DVILR)

1.4 This inspection considered, but was not a reinspection of:

- ICIBI's 2015 'Inspection of Settlement Casework'[2]
- ICIBI's 2019 'Inspection of the policies and practices of the Home Office's Borders, Immigration and Citizenship Systems relating to charging and fees'[3]

1.5 This inspection did not examine entry clearance applications; therefore, it did not consider the Home Office's routes for family members from Afghanistan or Ukraine.

1 https://www.gov.uk/government/publications/windrush-lessons-learned-review
2 https://www.gov.uk/government/publications/inspection-report-on-settlement-casework-november-2015
3 https://www.gov.uk/government/publications/an-inspection-of-the-policies-and-practices-of-the-home-offices-borders-immigration-and-citizenship-systems-relating-to-charging-and-fees

2. Methodology

2.1 Inspectors undertook the following activities between September 2021 and February 2022:

- reviewed relevant open-source material
- undertook familiarisation sessions with various Home Office teams involved in the family visas process
- analysed preliminary and formal evidence provided by the Home Office
- published a 'call for evidence' and received 17 written submissions from stakeholders, complemented by individual meetings, including a session with people with lived experience of the process
- reviewed 83 indefinite leave to remain (ILR) applications, stratified on 5 decision outcomes:
    - granted ILR and met all suitability and eligibility grounds
    - refused ILR, granted leave to remain (LTR) (on the 5-year transitional route)
    - refused ILR, granted LTR on Family and Private life (on the 10-year route)
    - refused ILR, granted leave outside the rules (LOTR)
    - granted ILR with COVID-19 concession applied
- conducted remote interviews and focus groups with 41 staff from Administrative Officer (AO) to Senior Civil Servant (SCS) and interviewed Sopra Steria staff
- on 9 February 2022, presented emerging findings to Home Office senior management

3. Summary of conclusions

Accessibility of process

3.1 Clear and accessible guidance on how to submit an application and the evidence required, with updates on application progress from the Home Office, would represent better 'value for money' for the applicant.

3.2 Appendix FM is widely acknowledged by stakeholders, including the Law Commission,[4] and Home Office staff to be a complex set of rules. The Home Office has pledged, in its Simplification of the Rules Programme, to make the rules simpler and more accessible. Currently, this simplification has yet to be seen by the applicant.

3.3 By the time an applicant arrives at the indefinite leave to remain (ILR) stage of the process, they should (in theory) be more familiar with the evidential requirements, having submitted at least 2 applications. By that logic, this should be the most straightforward application to make, on their route to settlement. However, people with lived experience told inspectors that guidance on how to complete their application was still required at this stage. They said that clear and accessible guidance was difficult to find on the GOV.UK website, and the application form itself was counterintuitive. They also observed that the "customer service", once an application was submitted, could be improved by better communication from the Home Office and updates on the progress of their application.

3.4 Whilst this inspection did not focus on the application fees of the process, which are not set by the operational team, stakeholders highlighted the significant cost on the applicant and their family, which, compounded by the lack of fee waiver, makes the ILR application inaccessible to some. This can lead to families making difficult decisions, such as leaving their children off an ILR application, reapplying for further leave to remain instead of ILR, or worse, dropping off the route altogether and living in the UK without any leave to remain.

Workflow and efficiency

3.5 ILR Operations has significantly reduced the work in progress (WIP) since its peak in April 2021. The 6-month service standard provides little incentive for the Home Office to reduce waiting time for applicants further. Work is required to implement an efficient validation and allocation process, which would go some way to address this.

3.6 The ILR WIP saw a significant increase between April 2020 and April 2021, when it more than tripled from less than 5,000 to more than 15,000 cases awaiting a decision. Managers in ILR Operations attributed this, in part, to the temporary closure of UK Visa Application Centres due to COVID-19, where applicants were unable to enrol biometrics and to the transition to working from home, whereby ILR decision makers (DMs) were without laptops for 3 weeks. During

4 https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/01/6.6136_LC_Immigration-Rules-Report_FINAL_311219_WEB.pdf

this period, 7 managers had laptops and 2 spare laptops were assigned to DMs. Throughout the 3 weeks, managers undertook decision-making duties to ensure cases with exceptional circumstances continued to be assessed. Operational teams demonstrated an ability to be flexible with staffing across the 3 teams in the Marriage and Family command and this, along with the introduction of Atlas, which has significantly improved productivity, contributed to a reduction in the WIP which, as at 7 February 2022, stood at 9,220 applications.

3.7 The service standard for ILR decisions is 6 months. This is in contrast to a service standard of 12 weeks for applications to entry clearance (EC) and 8 weeks for leave to remain (LTR) applications under Appendix FM. Stakeholders and applicants expressed frustration at this, saying evidential requirements do not differ significantly to applications for EC and LTR, and during this time applicants of ILR are not permitted to travel outside the Common Travel Area (CTA).[5]

3.8 ILR applications are considered in the order they have been submitted. This inspection found that this led to ineligible applicants – for example those who had not spent the requisite period of time in the UK – having to wait upwards of 5 months to find out they do not qualify for ILR. Straightforward applications could generally be decided on the same day they were first considered by a DM, yet waited the same length of time for a decision, owing to the volume of applications in the WIP. Where evidence was missing from an application and the DM had written to the applicant to request they provide it, the decision was often 'excluded' from the service standard. Had the application been considered sooner, the missing evidence would have been identified and the applicant could have provided it in time for a decision to be made within the service standard.

3.9 Whilst it is acknowledged that cases are considered in date order for fairness, a more robust validation process, which checked all applications at the earliest opportunity to see whether mandatory requirements were met, would mean ineligible applicants were notified more quickly, and applicants with straightforward cases would not remain in the WIP longer than necessary.

Decision-making in ILR Operations

3.10 It was encouraging to find that DMs in ILR Operations were exercising evidential flexibility, which led to positive outcomes for applicants.

3.11 More than 95% of all ILR applications are granted ILR. DMs and managers in ILR Operations said that most applications were straightforward, as the relationship to the British or settled family member has been assessed in previous applications.

3.12 Home Office guidance stipulates that DMs can exercise discretion to use 'evidential flexibility' to "defer an application pending submission of missing evidence or the correct version of it".[6] Inspectors found that this approach was promoted by managers in ILR Operations and consequently DMs were proactive in writing to applicants to give them the opportunity to provide evidence which was missing, where it would lead to a grant of LTR or ILR. This demonstrated a 'customer-centric' approach and has been recognised and welcomed by stakeholders, although DMs should avoid doing this unnecessarily, where the evidence would not materially impact the decision, which further delays the decision for the applicant.

5 In its factual accuracy response, the Home Office stated: "ILR applications do require a higher level of English language. The applicant is also required to pass the Life in the UK test."

6 https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

Communication with applicants

3.13 The clarity of communication with applicants requires improvement. Decision notifications should consistently use plain English and explain clearly the practical implications of the decision for the applicant.

3.14 This inspection found, as with the ICIBI's 2015 'Inspection of Settlement Casework',[7] that decision letters did not set out the reasons for refusal of ILR in a way which was easy for the applicant to understand, or the reasons or implications of that decision. Although decision letter templates were in use, inspectors were told that DMs did have the flexibility to add text which could make the decision easier to understand. However, there was little evidence of this taking place in the notifications of intention to vary leave and decision letters that inspectors reviewed.

3.15 Although there is no right of appeal in cases where ILR is refused but limited LTR is granted, an applicant can request a 'reconsideration' of the decision.[8] Many stakeholders were not aware that this was an option available to the applicant and provided examples of having instead, in such cases, submitted a judicial review (JR), which is a long and costly process for the applicant and the Home Office. This goes some way to explain why the number of reconsideration requests is so low, with just 140 submitted on decisions made since January 2019, representing 4.71% of the total number of refusals of ILR made in the same period.[9] Consistency, a key pillar of procedural fairness, would ensure that every applicant would be informed of their right to request a reconsideration. Of the requests that were made, almost a third were ultimately granted ILR, which demonstrates the effectiveness of a reconsideration process.

Impact of the 10-year route

3.16 The Home Office should collect targeted data to understand the impact of the 10-year route on low-income families and those who become undocumented due to the protracted route to settlement.

3.17 An applicant who is unable to demonstrate that they meet the minimum income requirement (MIR) is placed on the 10-year route to settlement, where there are exceptional circumstances in their case, or where a refusal could or would render a breach of European Convention on Human Rights Article 8. This could happen at any stage of the process, between the first application for EC, to the ILR application. Stakeholders are critical of this route, which means an applicant must make upwards of 3 applications before they would be eligible to apply for ILR and in this time would have a no recourse to public funds (NRPF) condition imposed on their leave.

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7 https://www.gov.uk/government/publications/inspection-report-on-settlement-casework-november-2015

8 The Home Office, in its factual accuracy response, stated: "The Department identified that the reconsiderations policy has been applied to cases where the settlement application has been varied and the person has been granted permission to stay. It was not the policy intention that the reconsiderations policy should apply to this cohort. However, we accept that the guidance as drafted causes confusion both for applicants and caseworkers and that this has led to a small number of reconsiderations taking place. We will review and update the guidance to make the position clear on what redress is available to this cohort."

9 The Home Office, in its factual accuracy response, stated: "We have also reviewed the data we provided... For completeness a summary of this data is attached, which shows:

- The initial data provided showed 143 reconsiderations had taken place on Settlement applications during the inspection period;
- On review of this data, the number has reduced to 121. This was due to the fact that a written request for reconsideration was submitted at the same time as they instigated a challenge via PAP/JR so effectively they were double counted.
- Of this, 50 were as the result of a Pre-Action Protocol or Judicial Review, and 71 were standard reconsideration requests.
- Of the 71 standard reconsideration requests, 46 (64.79%) had the decision maintained, and 18 (25.35%) were granted ILR. There were 7 (9.86%) other cases (a mixture of LTR grants and withdrawals/rejections)."

3.18 Stakeholders also highlighted an issue, of which senior leaders in the Marriage and Family command were unaware, which was the number of applicants that 'dropped off' the route prior to settlement, due to reasons beyond their control, such as loss of income and physical or mental illness. The Home Office does not collect sufficiently targeted data to measure either outcome, nor is the data held broken down by protected characteristics, thus limiting its ability to assure itself the route is not discriminating against particular cohorts.

4. Recommendations

Recommendation 1

4.1 Reduce the 6-month service standard to be more closely aligned with leave to remain applications on the same route (Appendix FM).

4.2 With a view to increasing efficiency and reducing decision waiting times, review and formalise the mechanisms for validating indefinite leave to remain (ILR) applications after biometrics have been submitted.

Recommendation 2

4.3 In consultation with stakeholders, further improve the quality (ensuring it is fully comprehensive and user-friendly) of the guidance, and its accessibility on the GOV.UK website, for applications under Appendix FM:

a. on the evidential requirements for an application
b. on any existing or future concessions or waivers

Recommendation 3

4.4 Review and update the existing Equality Impact Assessment (EIA) for Appendix FM to understand the impact on applicants and their dependents who:

a. are on the 10-year route
b. fall off the family route prior to settlement
c. reapply for further leave to remain when they would be eligible for ILR

Recommendation 4

4.5 Ensure all notifications to vary leave and refusal decision letters include reasons for, and implications of, the refusal of ILR. These should be explained in plain, jargon-free English, including:

a. confirmation of which route they are on as a result of the decision
b. timescales for eligibility to make a further application for ILR

5. Background

5.1 There are several ways in which individuals who seek to settle in the UK permanently can do so under the Immigration Rules (Rules), depending on their reasons for wanting or requiring to do so. The term 'settlement' indicates an individual has been granted indefinite leave to remain (ILR) and can therefore remain permanently in the UK.[10] A settled person can access public funds and is no longer required to pay the Immigration Health Surcharge (IHS), which is imposed on those with temporary immigration status. They could also, after a year of living in the UK with ILR, apply for British citizenship.

5.2 The Rules cover routes to settlement through work, study, and family.

5.3 'Appendix FM: family members' [11] of the Rules was introduced on 9 July 2012 and it, together with paragraph 276ADE(1) of the Rules, set out the requirements for individuals who seek to enter or remain in the UK on the basis of their family life as a partner, parent or child of a person (a 'sponsor') who must be either:

- a British citizen
- settled in the UK
- in the UK with limited leave as a refugee or person granted humanitarian protection (and where the applicant cannot seek leave to enter or remain in the UK as their family member under Part 11 of these rules)
- in the UK with limited leave under Appendix EU
- in the UK with limited leave as a worker or business person under Appendix ECAA Extension of Stay, in accordance with paragraph GEN.1.3.(e)

5.4 There are 2 routes to settlement for applicants under Appendix FM: the 5-year route and the 10-year Family and Private life route.[12]

10 If somebody remains outside the UK for more than 2 years at a time, the Home Office states that they may lose their ILR status. This could also be revoked in some instances relating to criminal or immigration offences.
11 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-family-members
12 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-family-members

5-year route

5.5 The 5-year route is for an applicant who meets all the suitability and eligibility requirements of the Rules, at every stage of the application process, as set out in Figure 1.

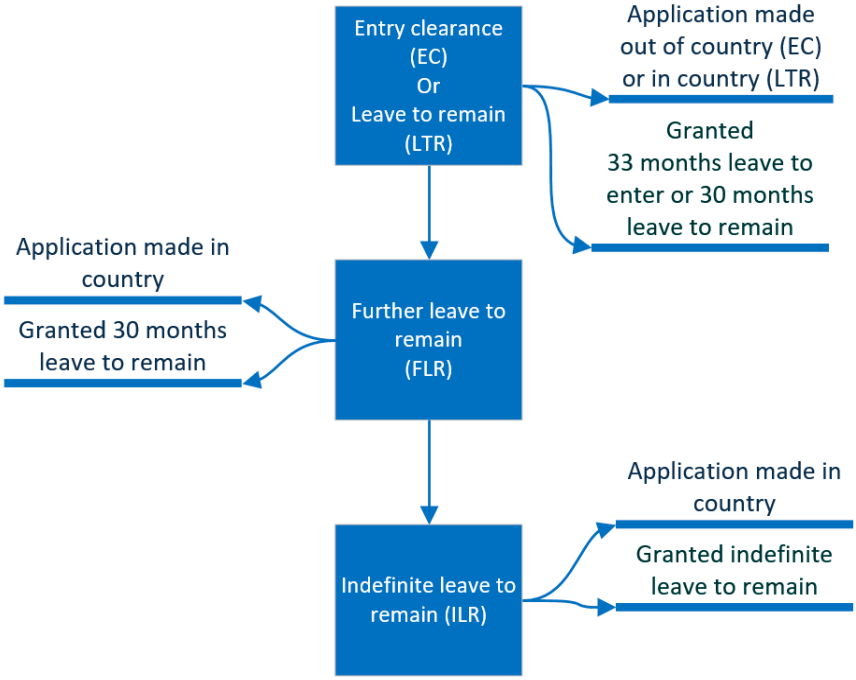
Figure 1: Summary of eligibility and suitability requirements	
Eligibility	
Relationship	Applicant and sponsor must be in the UK, together, for the entire 5-year qualifying period and be able to evidence a genuine and subsisting relationship.
Financial	The applicant and/or sponsor must be able to evidence they meet the minimum income requirement (MIR), currently set at £18,600.[13] The financial requirement can also be met by those on specified benefits meeting adequate maintenance requirements.
English language requirement	The applicant must evidence they have passed both the English language requirements and, at the ILR stage, the knowledge of language and life in the UK (KoLL) test. The level of English language proficiency required by an applicant increases at the ILR stage.
Suitability	
Circumstances which will fall for refusal, including: if the applicant is subject to deportations, criminal conviction, persistent offender, non-compliance with the visa application process and national security concerns.	

5.6 The specified evidence applicants must provide to meet the requirements of the Rules is set out in in Appendix FM-SE.[14]

13 Gross income can be met through employment, self-employment or directorship, savings, other income or a combination of income and assets.
14 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-se-family-members-specified-evidence

5.7 The 5 years is made up of 2 separate grants of leave. In most cases, the first application is made overseas and the other is in country. The process by which an applicant can settle under this route is set out in Figure 2.

Figure 2: Overview of 5-year route to settlement



5.8 The applicant must, at the date of applying for ILR, have completed 60 months of living in the UK.

10-year Family and Private life route

5.9 If an applicant is unable to meet one or more of: the immigration status requirement, or minimum income requirement (MIR), and the English language requirement at any stage of the process, but there are exceptional circumstances, or the Home Office deems that a refusal "would or could render refusal a breach of [Article 8 of the European Convention on Human Rights (ECHR)] because it would result in unjustifiably harsh consequences for the applicant, their partner, or another family member",[15] they will be placed on the 10-year Family and Private life route.

5.10 Exceptions to certain eligibility requirements for leave to remain as a partner or parent are set out in 'Section EX' of Appendix FM:

- EX.1.(a) provides for when the applicant has a "genuine and subsisting relationship" with a British child under the age of 18, or who has lived in the UK continuously for at least the 7 years immediately preceding the date of application, and it "would not be reasonable to expect the child to leave the UK".

15 www.gov.uk/government/publications/family-life-as-a-partner-or-parent-private-life-and-exceptional-circumstance

- EX.1.(b) provides for when the applicant has a "genuine and subsisting relationship" with a British or settled partner, and "there are insurmountable obstacles to family life with that partner continuing outside the UK".
- EX.2. defines "insurmountable obstacles", referred to in paragraph EX.1.(b), as "very significant difficulties which would be faced by the applicant or their partner in continuing their family life together outside the UK and which could not be overcome or would entail very serious hardship for the applicant or their partner".
- GEN.3.1. of Appendix FM should be considered by a decision maker (DM) where an applicant does not meet the MIR, but it is "evident from the information provided by the applicant that there are exceptional circumstances which could render refusal of entry clearance or leave to remain a breach of Article 8 of the European Convention on Human Rights, because such refusal could result in unjustifiably harsh consequences for the applicant, their partner or a relevant child",[16] In such cases, the DM should consider whether the financial requirement can be met through other sources of support. These are listed in paragraph 21(A)2 of Appendix FM-SE.
- GEN.3.2. of Appendix FM should be considered by a DM where the applicant does not meet one or more of the eligibility requirements and it is evident that there are exceptional circumstances, as defined above.[17]

5.11 The 10-year route is made up of at least 4 separate grants of leave. The applicant must, at the date of applying for ILR, have completed a continuous period of 120 months in the UK.

Indefinite leave to remain applications

5.12 ILR applications should be made online via a 'settlement marriage' (SET(M)) application form. Application submissions must be no earlier than 28 days before, but not after, their current period of leave expires. The applicant is then directed to pay the application fee. At the point of submitting the application form, a record is created on the Home Office case work database, Atlas.

5.13 Once an applicant submits their biometric information at a UK Visas and Citizenship Application Services (UKVCAS) site it is transferred on to Atlas. Supporting evidence is uploaded on to the Home Office document storage database, HOPs, either by staff at UKVCAS sites or by the applicant themselves. The application is then ready for allocation to a DM.

5.14 An applicant has a right to work and rent in the UK whilst their applicant is pending, even where their existing leave to remain expires before they receive a decision on their application.[18] However, paragraph 34K of the Immigration Rules states that applicants are not permitted to travel outside the Common Travel Area during this time and doing so would lead to their application being withdrawn by the Home Office.[19]

16 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-family-members
17 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-family-members
18 https://www.legislation.gov.uk/ukpga/1971/77/section/3C
19 https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-1-leave-to-enter-or-stay-in-the-uk

5.15 Figure 3 provides an overview of costs and service standards associated with an ILR application.

Figure 3: Service standards and costs of ILR application		
Service standard	Standard	6 months from submitting application online
	Super priority	1 working day after biometrics enrolled, or 2 if biometrics submitted during weekend
Application fee[20]	Standard	£2,389.20 per applicant[21]
	Super priority	An additional £800 per applicant
Biometrics enrolment[22]		£19.20
Immigration Health Surcharge		Not applicable
Fee waiver		Not available
Legal advice		At applicant's own expense[23]
Public funds		Public funds available following grant of ILR

Indefinite leave to remain decision outcomes

5.16 There are 4 possible outcomes of an ILR application:

- Grant ILR
- Refuse ILR, grant leave to remain (LTR) (5-year transitional route)
- Refuse ILR, grant Family and Private life LTR (10-year route)
- Full ILR refusal

20 On 6 April 2022, the Home Office introduced changes to immigration fees, with a new fee of £2,404 for an ILR application. These changes also included removal of the separate biometric enrolment fee payable on LTR and nationality applications, meaning £2,404 is now the total cost. Fees for the super priority service were not changed.

21 An applicant can include dependent children on the form but they must also pay the fee for each child, in addition to their own.

22 Prior to 6 April 2022, the Home Office charged a fee of £2,389 for an ILR application. Additionally, applicants were required to pay a separate £19.20 biometric enrolment fee, meaning the total cost of an application was £2,408.20. Applicants wishing to pay for the optional super priority service would be charged an additional £800, resulting in a total cost of £3,208.20.

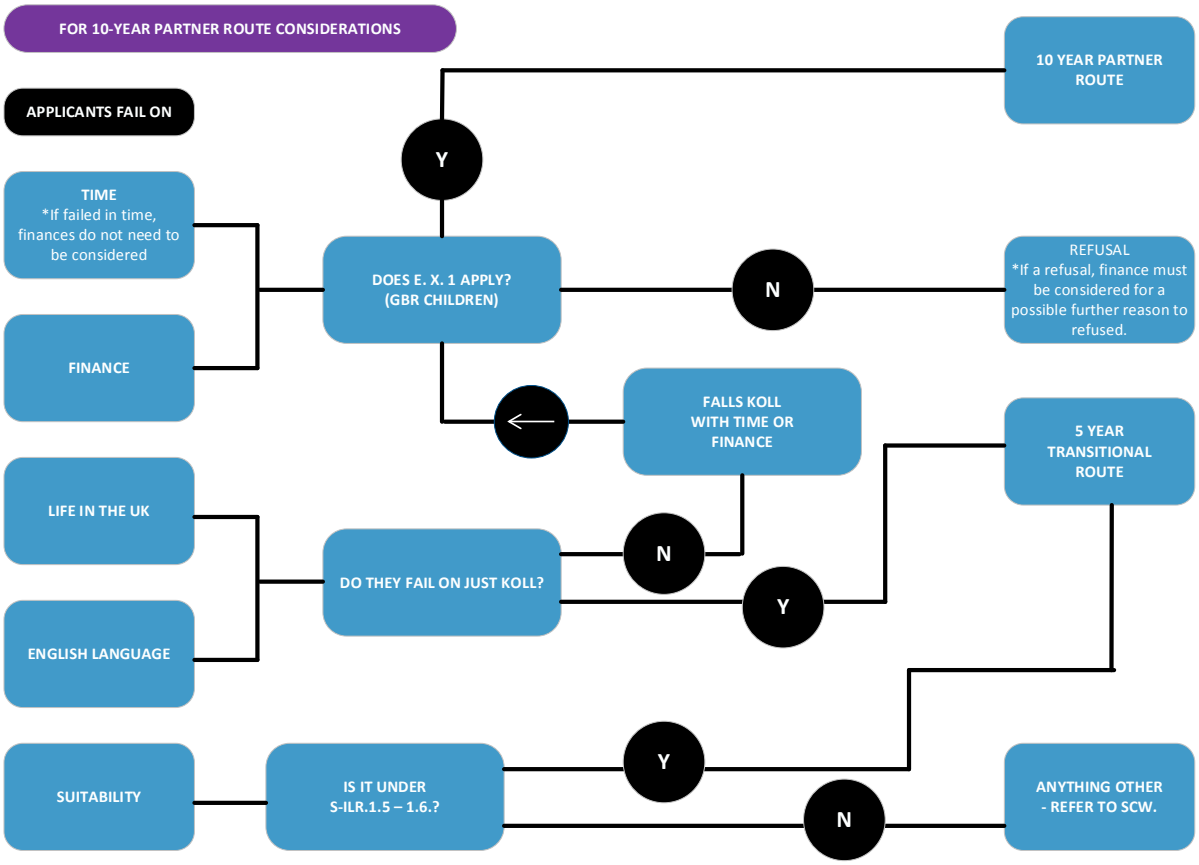
23 Legal aid is not available for applications under Appendix FM, since The Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into effect on 1 April 2013. Applicants who wish to seek legal advice must do so at their own expense.

Figure 4: List of outcomes with next steps for applicant	
Outcome	**Next steps**
Grant ILR	Applicant now has settled status, access to public funds and is no longer required to pay the IHS
Refuse ILR, grant LTR (5-year transitional route)[24]	Applicant is granted a further 30 months LTR and remains on the 5-year route as they are unable to satisfy Appendix KoLL requirements and/or some suitability requirements (S-ILR.1.5/S-ILR.1.6) Applicant must have completed 60 months continuous leave and meet all other requirements Applicant can reapply for ILR as soon as they satisfy Appendix KoLL
Refuse ILR, grant Family and Private life LTR (10-year route)[25]	Applicant fails to meet the requirements (excluding Appendix KoLL and (S-ILR.1.5/S-ILR.1.6) as above) and is granted a further 30 months LTR on the 10-year route Applicant can reapply for ILR only after they have completed 120 months since their original family visa grant, or as soon as they satisfy the requirements
Full ILR refusal	Applicant fails to meet ILR requirements, requirements after consideration of EX.1. and there are no exceptional circumstances

5.17 Figure 5 sets out the decision-making process produced by the Home Office for ILR DMs to follow when an applicant does not meet all the requirements to be granted ILR.

24 This outcome requires the applicant to pay an IHS.
25 This outcome requires the applicant to pay an IHS.

Figure 5: ILR decision-making process for applicants who do not meet all the eligibility or suitability requirements



5.18 Applicants who are refused ILR but granted another type of leave can request that the Home Office reconsider the decision. Applicants (or their representative) must ask the Home Office for a reconsideration within 14 days of receiving the original decision. Applicants cannot submit new evidence in support of their request for reconsideration. The request must be submitted in writing and must:

> "Explain why the decision is incorrect or inconsistent with existing policy, stating how it did one of the following:
>
> - failed to take account of, or misinterpreted, relevant evidence submitted to the Home Office before the date of the decision
> - was not in line with the relevant law, policy or guidance."[26]

Simplification of the Rules

5.19 Recognising that the Immigration Rules are widely criticised for being "too long, complex and difficult to use",[27] the Law Commission set up a project on 'Simplifying the Immigration Rules' in December 2017. The project considered how the Rules could be made simpler and more accessible to applicants and, in January 2020, the commission's report was published, which included 41 recommendations:

26 https://www.gov.uk/government/publications/reconsiderations
27 https://www.lawcom.gov.uk/project/simplifying-the-immigration-rules/

> "The report, which does not make any recommendations around substantive immigration policy, recommends a complete redrafting of the Rules with the aim of creating simplified and more easily accessible Rules that offer increased legal certainty and transparency for applicants.
>
> The recommended changes include improvements to how the Rules are structured, drafted and maintained, and include a twice-yearly limit to updates to the Rules. The improvements extend to how the Rules interact with supporting guidance and application forms.
>
> The report also recommends that the Home Office consider introducing a less prescriptive approach to evidence required from applicants. The overly-detailed approach has led to an increasing number of amendments to the Rules, making them more difficult to follow. By reducing the level of detail and prescription, there is a reduced need for frequent amendment."[28]

5.20 In the report, Appendix FM is cited as an example of how a succession of changes to evidential requirements and a shift towards "a policy of detailed prescription" can generate complexity. The analysis found "a vicious circle which generated more detail, longer Rules, and more frequent changes".[29]

5.21 In the Home Office's response, published in March 2020,[30] the government accepted 24 and partially accepted 17 of the recommendations. The response does not refer directly to Appendix FM but rather the Rules as a whole. It pledges to make them consolidated and simplified, restructured so that they are easy to use and understand, and drafted in plain English. The response outlined how the simplification of the Rules will change the experience for the user in the following areas:

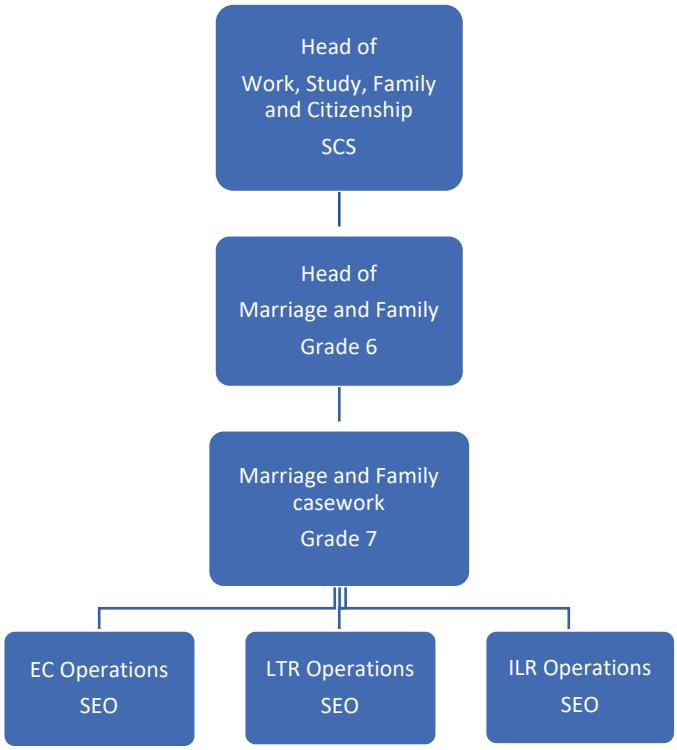
- navigating the immigration system
- understanding the requirements
- finding the right application form
- providing the right evidence
- understanding the decision
- understanding changes to the rules
- understanding rights and responsibilities

Indefinite leave to remain Operations

5.22 The ILR Operations team sits within the Work, Study, Marriage and Citizenship operational delivery arm of the Home Office's Visas and Citizenship directorate. This follows a restructure in 2018 separating the team from the Family and Human Rights Unit, who now solely manage private life-based applications. The ILR Operations team is headed by a Grade 7 responsible for all Marriage and Family casework. The operational teams for EC and LTR Operations also report into the same Grade 7 manager, who reports to a Grade 6 overseeing the Marriage and Family command in the Home Office. Figure 6 illustrates the structure ILR Operations sits within.

28 https://www.lawcom.gov.uk/project/simplifying-the-immigration-rules/
29 https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/01/6.6136_LC_Immigration-Rules-Report_FINAL_311219_WEB.pdf
30 https://www.gov.uk/government/publications/simplifying-the-immigration-rules-a-response

Figure 6: Organisational chart illustrating ILR Operations hierarchy



Resourcing

5.23 Figure 7 summarises the responsibilities of roles at each grade in ILR Operations and how many of each grade were in post as at 7 February 2022.

Figure 7: Roles within ILR Operations

Role	General responsibilities	Staff in post full-time equivalent (FTE)
DMs	Deciding ILR applications, ensuring all mandatory checks are completed considering all submitted evidence. All actions are to be in line with policy and guidance, and decisions are accurate, evidenced and 'jargon free'	29 (28.5)
Senior caseworker	Managing workflow, ensuring cases are not "unnecessarily approaching service standards". Appropriately allocating super priority cases Line management responsibility for DMs, including performance management Quality assurance of ILR decisions	6 (6)

Figure 7: Roles within ILR Operations		
Role	**General responsibilities**	**Staff in post full-time equivalent (FTE)**
Casework manager	Overseeing workflow and reporting weekly to the senior leadership team on service standard and work in progress (WIP)	2 (2)
Operational manager	Overseeing the WIP and compliance of the service standard. Overall management responsibilities of direct reports and indirect reporting duties	1 (1)

Training

5.24 At the time of the inspection, DMs joining ILR Operations team received remote operational training, which had been introduced owing to COVID-19, in addition to mandatory Home Office induction packages, which include health and safety, data protection and diversity, and inclusion courses. Prior to the pandemic, operational training was delivered in person, whilst the mandatory Home Office induction packages have always been online, accessed via 'Civil Service Learning', a civil service-wide learning platform.[31]

5.25 The remote training course provides an overview of the topics listed below, generally over the period of 1 week before DMs then work on live cases with the support of a dedicated, more experienced member of the team, also known as a 'buddy'. Topics covered in the DM induction training include:

- Appendix FM
- Operating mandate[32]
- Suitability and eligibility requirements
- Financial requirements
- Knowledge of language and life in the UK
- Home Office systems (Atlas and CID)
- Immigration Health Surcharge (IHS)
- Dependents
- Identifying other appropriate routes or visas

5.26 The induction training is delivered by Business Embedded Trainers, Marriage and Family staff who undergo 'train the trainer' training, delivered by the UK Visas and Immigration Professionalisation Hub, to enable them to deliver the course to their colleagues. As at February 2022, there were 2 BETs within ILR Operations but only 1 had received the 'train the trainer' training.[33]

31 The Home Office, in its factual accuracy response, stated: "A local digital/face-to-face induction is delivered by the local Visa, Status & Information Services Learning and & [Sic] Development Hub which gives an understanding of the Home Office, its values, details of the local teams/ work they will be doing and why the customer is so important (Windrush is used as an example). It also covers Home Office core values and local working arrangements."

32 Operating mandate is a set of essential security checks Home Office officials are obliged to conduct on each applicant.

33 The Home Office, in its factual accuracy response, stated: "Both BETs have undertaken 'train the trainer' training – the other was completed in March 2022."

COVID-19

5.27 In response to the COVID-19 pandemic and following government guidance, from March 2020 office-based staff across the Home Office were encouraged to work from home where they could. Staff in ILR Operations were provided with laptops, and within 3 weeks all staff had the equipment and access required to carry out their work. Staff attendance in the office aligned with government guidance over the course of the pandemic. From 14 March 2022, all Home Office staff who were office-based before the pandemic were required to attend the office in person at least 40% of their contracted time, averaged over a period of 1 to 3 months, as decided by individual teams.

5.28 On the 27 March 2020, Sopra Steria closed all UKVCAS service points. On 1 June 2020, a phased reopening began with reduced appointment capacity. The Home Office and UKVCAS developed a way for previously submitted biometrics to be reused. On 23 September 2020, normal service processes resumed for applicants. The reopening of this service saw a surge in demand due to previously restricted appointment numbers.

6. Inspection findings: accessibility of process for applicants

6.1 In order to assess how accessible the process is, inspectors reviewed 3 elements of the application process for indefinite leave to remain (ILR): the guidance available to applicants, the user experience of the application process itself and the cost of making an application.

Complexity of the Rules

6.2 It is widely acknowledged by applicants, staff and stakeholders, that Appendix FM is a complex section of the Immigration Rules (the Rules). It is difficult to follow, owing in part to the appendices, as identified by the Law Commission in its 'Simplifying the Immigration Rules' report[34], published in 2020.

6.3 As at February 2022, there had been limited progress on the simplification of the Rules in relation to Appendix FM beyond 'scoping'. The Home Office informed inspectors that it has organised its simplification work by routes, such as student, skilled worker and family, and then cross-cutting themes such as language, finance and settlement. Inspectors were told that the Simplification of Rules Taskforce in Migration and Borders Group had examined "the background, statistics, caselaw, and pain points, to ensure a shared understanding of the route and to identify potential areas for simplification."

6.4 It was explained that, in collaboration with Policy and Operational teams, simplification of the Rules requires understanding of the policy intention, how the Rules work in practice, relevant caselaw and data, and considering how the rules could be simplified or otherwise improved.

6.5 In February 2022, inspectors were told that the Home Office plans to introduce changes to the Rules on 3 March 2022, which, if agreed, will take effect in the summer. It was explained that the proposed changes would make it easier for 10-year Family settlement and Private life applications to apply for and obtain settlement, which included applicants being able to:

- "Combine time on family and private life routes towards the qualifying period rather than having to 'reset the clock' on the qualifying period if their circumstances change
- count time on other routes to settlement where certain conditions are met (if agreed)
- rely on GCSE, A Levels or equivalent Scottish Higher qualifications in English language or literature following education in a UK school to show they meet the English language requirement"

6.6 On 15 March the Home Secretary laid a 'Statement of changes in Immigration Rules' in the House of Commons. The changes included the introduction of a 'reformed route for Settlement Family life', which "applies to partners and parents who must complete a 10-year qualifying period in the UK before qualifying for settlement."[35] The Parliamentary Under Secretary of State for Safe and Legal Migration, Kevin Foster MP, announced the

34 https://www.gov.uk/government/publications/simplification-of-the-immigration-rules-report
35 https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1118-15-march-2022

changes would allow for "increased flexibility for applicants to count time on other routes to settlement towards their qualifying period, meaning when a person's circumstances change their qualifying period for settlement does not have to start again".[36]

Availability of guidance

6.7 Wendy Williams' 'Windrush Lessons Learned Review' (WLLR), published 19 July 2018, highlighted the need for an improvement in applicant guidance. Recommendation 18 states the Home Office should:

> "Establish more and clearer guidance on the burden and standard of proof particularly for the information of applicants, indicating more clearly than previously how it operates and what the practical requirements are upon them for different application routes".[37]

6.8 The Home Office accepted this recommendation and in 'The Response to the Windrush Lessons Learned Review: A Comprehensive Improvement Plan'[38] highlighted the work of the Simplification of the Rules programme, which aims to "…consolidate and simplify the immigration rules, as well as restructure them so that they are easy to understand and use."[39]

6.9 Stakeholders and Home Office staff indicated that, due to the complexity of the rules governing the routes to settlement, as set out in Appendix FM, clear and easily accessible guidance for applicants is key, particularly as they are fee-paid routes.

6.10 By the time an applicant makes an ILR application, they have made at least 2 previous applications on the family route so it is likely that they would be more familiar with the requirements than when applying for entry clearance (EC) or leave to remain (LTR). However, concerns remained amongst stakeholders about the lack of clear guidance available to applicants on which documents are required to support their application at this stage, and the difficulty in navigating the GOV.UK website to find this information. As at February 2022, the 'Indefinite leave to remain if you have family in the UK'[40] page did not contain a comprehensive list of evidence required to support an application.[41]

6.11 One person with lived experience of the application process told inspectors:

> "It is so anxiety producing, and I am an immigration lawyer … I cannot find the guidance and am terrified I am going to miss something… I can't imagine how you approach it if you don't have this [legal] background."

6.12 Those with lived experience of the process also explained that having clear guidance in one place, available prior to submitting an application, would enable them to be fully prepared before starting the process. This, they said, would make what should be a straightforward application less daunting and would enable them to submit applications supported by the most appropriate evidence.

6.13 Staff from UK Visa Application Centres (UKVCAS), where some applicants choose to submit their evidence, told inspectors that applicants occasionally bring "a suitcase of documents" to be safe. Although information on what evidence is required is contained within 'Appendix

36 https://questions-statements.parliament.uk/written-statements/detail/2022-03-15/hcws680
37 https://www.gov.uk/government/publications/windrush-lessons-learned-review
38 https://www.gov.uk/government/publications/windrush-lessons-learned-review-response-comprehensive-improvement-plan
39 https://www.gov.uk/government/publications/windrush-lessons-learned-review-response-comprehensive-improvement-plan
40 https://www.gov.uk/indefinite-leave-to-remain-family
41 This section of the website was updated in March 2022 and now contains a list of eligibility requirements, as well as a link to the family visas page.

FM-SE' of the Immigration Rules, this, as highlighted in the 'Simplification of the Immigration Rules' report,[42] is not easy to read and understand for a lay person, particularly where their first language is not English.

6.14 Stakeholders and Home Office decision makers (DMs) told inspectors that the most complicated element of the ILR application process is the minimum income requirement (MIR). This part of the application process is governed by the Family Migration guidance:

- 'Appendix FM Section 1.7 Appendix Armed Forces – Financial requirement', published 7 December 2021
- 'Appendix FM Section 1.7A – Adequate maintenance and accommodation', published on 7 December 2021

6.15 Cases which involve a self-employed applicant or sponsor are considered by DMs to add an additional layer of complexity. One DM said that "director or self-employed cases are more complex; they are not like others where it is just a tick box and grant". Stakeholders involved in the provision of legal advice for migrants said that better guidance is needed for evidencing an applicants' finances, specifically applicants or sponsors who are self-employed. Inspectors saw evidence of such cases in their review of ILR applications whereby 2 self-employed applicants had struggled to provide sufficient evidence to support their application.

6.16 Stakeholders told inspectors that the lack of accessible guidance had led some applicants to use a legal representative, incurring additional costs, even where their application was a straightforward one. An academic working on immigration-related issues told inspectors that, in ILR applications, "it should only be people with complex cases that need a lawyer", but that this was rarely the case. Furthermore, inspectors were told by applicants with lived experience of the process that a lack of clear official guidance meant that they had to rely on online forums or "glean" information from other applicants.

6.17 In response to the pandemic, the Home Office introduced a set of 'COVID-19 concessions' introducing a level of discretion into the decision-making process with regards to meeting the MIR and providing evidence. Iterations of the guidance for these concessions were available for applicants on the GOV.UK website,[43] although there was no link to it on the 'Indefinite leave to remain if you have family in the UK'[44] page, where guidance on making an application for ILR as a family member can usually be found.

6.18 Stakeholders told inspectors that it had been "difficult to get the Home Office to announce the concession" and were not confident that the information on GOV.UK was up to date. When asked about this, a senior manager explained that the DMs were trained to proactively identify and apply concessions to eligible applicants.

Application submission

6.19 The Home Office requires applications for ILR to be submitted online via the SET(M) form, on GOV.UK. In limited circumstances, applicants can apply for support to assist them in completing the online form using the free 'We Are Digital' service.[45] This service is available for applicants who do not have an internet compatible device, do not have internet access or lack confidence

42 https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/01/6.6136_LC_Immigration-Rules-Report_FINAL_311219_WEB.pdf
43 https://www.gov.uk/guidance/coronavirus-covid-19-advice-for-uk-visa-applicants-and-temporary-uk-residents
44 https://www.gov.uk/indefinite-leave-to-remain-family
45 https://www.we-are-digital.co.uk/assisted-digital

in using a computer or mobile device. An application to 'We Are Digital' is made by email, text, or telephone. Applicants who qualify for support will either be offered telephone or face to face support from an adviser.

6.20 Those with lived experience of the process told inspectors that they found the online application form counterintuitive and not user friendly. Inspectors were told applicants are unable to leave any answers blank and then return to them later if, for example, they needed to pause the application and obtain further information as requested by the form. Applicants are unable to view the application form in its entirety, preventing them being able to fully prepare before starting their application. The system provides a checklist of the required documents needed in support of an application only once the application is submitted. Applicants commented that resolving these functionality issues would enable them to prepare and submit the most relevant evidence.

6.21 The team responsible for developing the online application form told inspectors that the ILR application form uses an IT system that has been in operation since 2015 called Access UK 1. A manager from this team acknowledged that it was understood to be frustrating that applicants could not leave anything blank on the form. They told inspectors that the intention is to move ILR applications onto the newer platform, Access UK 2, which is used by the European Union Settlement Scheme (EUSS) and has a "better user journey, better code base and architecture".

6.22 Upon submitting the application, those with lived experience expressed frustration at there being no way to check the progress of their application and described a convoluted process in contacting the Home Office. To do so, they should contact a separate team, the Customer Contact Centre managed by Teleperformance, who are unable to provide an update on progress of the application. Only where an application is out of service standard would it be referred to the Sheffield Correspondence Team to consider whether to refer to ILR Operations. One person who had recently been through the process said that the system would benefit from "a way of tracking an application".

6.23 Inspectors were provided with evidence of an evaluation of a 'Customer Notification' pilot which had been run by the Home Office's Customer Experience Hub on Tier 4 in-country visa applications. It trialled providing applicants with the exact date that a decision should be made on their application, which "should enhance their understanding of service standards and set expectations around processing times". It was anticipated that:

> "This will result in an increase in clarity of information and certainty about the state of their application. This increased certainty and confidence will then result in improvements in customer satisfaction and reductions in contact coming into UKVI [UK Visas and Immigration] based on In-Service Standard Application Updates".

6.24 It found that there had been an increase in overall customer satisfaction by 10% compared to other routes, with a recommendation to roll out exact date notifications to all in-country application routes. Senior managers were hopeful that this could be rolled out across the Marriage and Family command, although as at February 2022, no timescales had been set for this work.

6.25 This pilot came as a response to a recommendation contained in the ICIBI's 2019 'Inspection of the policies and practices of the Home Office's Borders, Immigration and Citizenship Systems relating to charging and fees', to:

> "Ensure that for each nationality and immigration fee there is a clear statement of the level of service the 'customer' can expect in return for payment, including when they will receive a response and/or decision, effective communication about the application and the decision, and the means to complain and seek redress where the level of service falls short of the expected standards."

6.26 The Home Office committed to several actions, including to "review general communication strategy, including information we give on service level agreements for standard and priority services and making it clearer how to raise concerns".

6.27 In response to a request for an update on this action, the Home Office stated that it had added 2 pages to GOV.UK on visa waiting times, which "provide clearer information to customers about when they can expect a decision on their visa application, for both in and out of country customers, using plain English. These pages are constantly under review to ensure that the information is clear, correct, and consistent, with the most recent update being made in March 2021".

6.28 Finally, it stated that it continues work to "identify and improve information provided to customers, using insight and research findings to understand customer needs" and that "there are longer term strategic plans in place around customer communications and guidance, including potential use of virtual assistants, webchat and customer accounts which should help to address these pain points."

Application fee

6.29 The fee charged for an application for ILR was set in line with the charging powers under Section 68 (9) of the Immigration Act 2014,[46] as well as the Immigration and Nationality (Fees) Order 2016,[47] which sets out the maximum amount that may be charged for specified immigration and nationality functions. Fees are part of the Home Office's funding settlement with the Treasury and support the Home Office's objective of working to becoming self-funded, as agreed in the 2015 Spending Review. The current ILR application fee of £2,389 per person was set in the Immigration and Nationality (Fees) Regulations 2018.[48] [49]

6.30 ICIBI's 2019 'Inspection of the policies and practices of the Home Office's Borders, Immigration and Citizenship Systems relating to charging and fees' concluded that the Home Office:

> "Has not paid enough attention to explaining individual fees and increases to its customers, particularly those seeking settlement and nationality, leaving it open to accusations that its approach is not truly transparent or fair, that its services are not reliable, and that its fees do not represent 'value for money'."[50]

6.31 Stakeholders and applicants told inspectors that they felt the fees charged did not represent value for money. Comparisons are made between the ILR application process and the European Union Settlement Scheme (EUSS). The EUSS application is free of charge, applicants can expect a decision on their application form within 6 to 8 weeks and have access to a dedicated helpline, in which they are provided with support and updates on their application

46 https://www.legislation.gov.uk/ukpga/2014/22/contents/enacted
47 https://www.legislation.gov.uk/ukdsi/2016/9780111142691/contents
48 https://www.legislation.gov.uk/uksi/2018/330/schedule/2/made
49 This fee was increased to £2,404 following fee changes introduced in April 2022.
50 https://www.gov.uk/government/publications/an-inspection-of-the-policies-and-practices-of-the-home-offices-borders-immigration-and-citizenship-systems-relating-to-charging-and-fees

form. Whereas the ILR application process, despite having a fee attached, has a 6-month service standard and a general contact centre number,[51] which, although is free to use, the call handlers are limited in the advice they can provide.

6.32 Stakeholders and people with lived experience of the process told inspectors that they did not understand the rationale behind the ILR application fee, or why it was almost double that of other application fees (such as £1,048 for leave to remain[52] or £1,330 for naturalisation). The Home Office's Fees & Income Planning Team told inspectors that the fee had been progressively increased since the 2015 Spending Review as part of the wider objective to move the borders and migration system to an increasingly self-funded basis. Where fee changes are proposed, these are subject to Ministerial decision and Treasury consent.

Financial impact on families

6.33 For families, there is a significant additional cost attached. For a parent and 2 children to apply for ILR, it will cost the family in excess of £7,000 in application fees alone.

6.34 Organisations providing support to migrant families described instances whereby parents made the difficult decision not to include their children on their applications for ILR to reduce costs. By prioritising their own application, a parent could continue to work but as a consequence their child(ren) would, at the expiration of their current leave, have no lawful immigration status.

6.35 Alternatively, inspectors were told that applicants may choose to submit an application for further leave to remain, which has a lower application fee, where they could at least attempt to apply for a fee waiver. This, they said, was a more affordable option in the short term, however, these applications have a high evidential threshold and come with challenges of their own. An organisation providing legal advice and support to children warned that these applicants may become "trapped in a cycle of precarious grants of limited leave (with no recourse to public funds) rather than applying for settlement, which would give them permanence".

6.36 When these workarounds were raised by inspectors with a senior manager in Marriage and Family, they were unaware of this being an issue. The examples instead were wrongly conflated with "exploiting" the route, rather than a consequence of measures people took when the ILR application was unaffordable to them. They said that, if an application was submitted for LTR when the applicant was eligible for ILR, the DM should "pick that up". And if children were left off the applications it was "a personal choice, where they test the waters before applying".

6.37 A senior manager in Family Policy told inspectors that, by 2023, the MIR will be lower than the national living wage. Therefore, the MIR would be a significant proportion of income for applicants and sponsors whose income is at or close to the MIR. For a family in which there are 4 applicants applying for ILR, it could amount to half the family's annual salary.

6.38 A Family Policy manager explained that the reason fee waivers exist is so that the Home Office can meet its obligations under Article 8 of the Human Rights Act 1998.[53] As applicants for ILR have alternative application routes available if they cannot afford the fee, a fee waiver is not considered necessary for the Home Office to meet these obligations. However, the Home Office stated that some people may never be able to afford the fee and so face a lifetime of fee

51 https://www.gov.uk/contact-ukvi-inside-outside-uk/y/inside-the-uk/applying-to-continue-living-in-the-uk-including-settled-and-pre-settled-status/something-else/something-else
52 This fee was increased to £1,048 following fee changes introduced in April 2022.
53 https://www.legislation.gov.uk/ukpga/1998/42/schedule/1

waiver applications. A senior civil servant indicated that fee waivers could be introduced in the future, though there were no concrete plans to do so.

Biometric costs

6.39 As part of the application process, applicants are required to submit their biometrics and a photograph at a UKVCAS service point. The Home Office's commercial partner, Sopra Steria, is responsible for the capture and enrolment of biometrics for the majority of applicants within the UK. The contract with Sopra Steria was extended in November 2021, at which point the price of all paid appointments was capped at £125, "to ensure all customers had equal choice". Prior to this, appointments ranged from £71.50 to £138.

6.40 When this inspection began in September 2021, stakeholders told inspectors that free appointments were very limited and difficult to obtain. A Sopra Steria manager told inspectors that, up until November 2021, free appointments were released at midnight and that they were all booked very quickly shortly after their release. They stated that this had now changed and that they were now released at 9am, meaning applicants without access to the internet had a fairer chance of booking one. Stakeholders confirmed that, since November 2021, more free appointments had been released and they were easier to obtain.

6.41 With the agreed changes in the extension of the contract, 'in hours' and 'out of hours' were removed and all sites became 'core' sites, with 51% of appointments required to be free.

6.42 In addition to the potential cost of a biometric appointment, Sopra Steria offers other services for which they also charge a fee: the use of an interpreter for an appointment costs £66.50, while support for scanning and uploading supporting documents costs £51.[54].[55]

54 https://www.ukvcas.co.uk/additional-services

55 These fees have since increased to £70 for an interpreter and £54 for document scanning.

7. Inspection findings: performance, workflow, and efficiency

Work in progress management and performance

7.1 Inspectors examined weekly performance data from January 2020 to February 2022 and found that the volume of the indefinite leave to remain (ILR) Operations work in progress (WIP)[56] had fluctuated throughout. On 5 April 2020 the WIP was at 4,905; it reached its peak on 4 April 2021 at 14,735 cases and reduced to 9,310 cases on 20 February 2022, as illustrated in Figure 8.[57]

Figure 8: Performance information as at beginning of each quarter since Jan 2020 on ILR applications

Week ending	Total WIP	Intake (applications)	Output (decisions)	Within service standard	Out of service standard	Excluded from service standard	Within service standard operating at
5 Jan 2020	3,810	403	299	(not specified)	(not specified)	(not specified)	week 10-12
5 April 2020	4,905	371	38	93.6%	0.9%	5.5%	week 13-15
5 July 2020	7,472	525	359	92.4%	0.4%	7.2%	week 16-18
4 Oct 2020	11,187	41	575	93.1%	0%	6.9%	week 25
3 Jan 2021	12,213	12	139	92.7%	0%	7.3%	week 22-24
4 April 2021	14,735	639	468	93%	0.2%	6.8%	week 25-29
4 July 2021	12,774	434	779	89.2%	0%	10.8%	week 25
3 Oct 2021	11,197	755	748	89.4%	0.4%	10.2%	week 25
2 Jan 2022	9,379	93	259	88.4%	0.7%	10.9%	week 19-21

7.2 Throughout this period, over 85% of cases were decided within the 6-month service standard, except during a 3-week period of April 2021 when ILR Operations was working outside the service standard, at weeks 25-29. However, the number of excluded cases has increased.

56 WIP are the number of applications that have been submitted but have not had a decision.
57 Data in Figure 8 has been taken from the weekly performance dashboard containing management information for the whole of Visas and Citizenship. It contains volumes from the first week of the beginning of each quarter.

It is not evident from the management information provided how many super priority cases are decided within the service standard.

7.3 At 20 February 2022, 89% of ILR applications were still within service standard, 0.8% were outside it and 10.2% were excluded from it. Excluded applications could include applications that have been paused to allow the applicant time to provide further evidence.

7.4 Decisions as at February 2022 are being decided, on average, between 19 and 21 weeks from when the applications were submitted.

7.5 Data provided to inspectors on ILR applications submitted between 1 January 2019 and 1 February 2022 showed that the average time an applicant waited for a decision on a standard service remained above 20.7 weeks, as illustrated by Figure 9.

Figure 9: Decision length of applications submitted since 2019

Year applications submitted	Average days to receive a decision
2019	115.25
2020	146.67
2021	145

7.6 Inspectors were unable to determine the average time for applications which had used the 'super priority' service, as the data set did not include the date the applicant submitted their biometrics, which would be when the service standard began.

7.7 Managers attributed the sharp increase in the WIP primarily to the COVID-19 pandemic, at the beginning of which some staff did not have the right technology to work from home, and the temporary closure of UK Visas and Citizenship Application Services (UKVCAS) between April and June 2020 prevented applicants from submitting their biometrics. This coincided with the rollout of the new case-working system, Atlas, which although improved productivity in the long term, initially meant decision makers (DMs) were required to take time out of their duties to attend remote training to learn how to use it. This was described by several people within the ILR Operations team to be a "perfect storm".

7.8 Senior managers said that, although the COVID-19 pandemic had the biggest impact on decision-making productivity, they also highlighted longstanding staffing issues, with high staff turnover limiting their ability to "get on top of" decisions. Managers told inspectors that this turnover was mostly owing to DMs getting promoted. With this turnover, "lots of experience had gone" and the team, according to one manager, was working "on a hair trigger". They identified a need for more established DMs, as they "could easily slip back 2 weeks if we lose any more".

7.9 Inspectors were told that their ambition was to return to pre-pandemic decision times and described efforts which had led to the reduction of the WIP and decision waiting times to date which had "required a lot of hard work and pre-planning", although as at February 2022, they reiterated they were "still feeling the effects" of the impact of the pandemic.

7.10 To mitigate delays for applicants who had been unable to submit their biometrics due to the closure of UKVCAS service points, the Home Office's Bio-Reinjection Workflow Operation Team[58] implemented a new 'visa case-activation solution', which enabled applicants who had enrolled their biometrics in previous applications to confirm their biodata digitally via an app.

7.11 Inspectors were told that ILR Operations also began to carry out pre-assessment work during the COVID-19 pandemic, which meant that, by the time the applicant was able to attend a UKVCAS service point to enrol their biometrics, their decision could be issued.

7.12 ILR Operations had used staff from 2 external agencies, where the recruitment process is much shorter than usual Civil Service recruitment processes, to increase their headcount and attempt to reduce the WIP and length of time applicants had to wait for a decision. As at 7 February 2022, 6 (6 full-time equivalent (FTE)) of the 29 (28.5 FTE) DMs were agency staff. In April 2021, 12 agency staff were recruited but by January 2022, only 2 remained from that intake and, at the time of inspecting, ILR Operations was hoping to offer them fixed-term appointments. A further 4 agency staff were recruited in September 2021.

7.13 The use of agency staff sometimes did not have the intended outcome for productivity, as managers told inspectors that "it can take a full 6 months to say they are proficient" and even then, "agency staff have uncertainty", as their contracts are not permanent, so the team had "lost good ones because they want something more permanent". Of the 2 agencies used, there was a general consensus amongst managers that one provided more competent staff than the other. In response to this, they had come to the decision to use only that agency within ILR Operations, although no date was provided for when they would cease to recruit from the other agency. The agency continued to provide staff in other estates across the Home Office.

7.14 Inspectors were told that staff from the other teams in the Marriage and Family command had also been reallocated to the ILR Operations team to provide support, primarily from the leave to remain (LTR) team. This was also reflected in the risk register, owned by the SCS for Marriage and Family, which in February 2021 confirmed a "loan of 14 staff from FLRM[59] to protect service standard in the short term".

7.15 Although this may have contributed to the overall reduction of the WIP and demonstrates the ability to be flexible in staffing resource, inspectors noted from performance reports provided for the whole Visas and Citizenship directorate that waiting times for decisions on LTR applications under Appendix FM have previously exceeded the service standard, so it is unclear how this decision was reached or whether it was in the best wider interest of the department.

7.16 Managers in ILR Operations also described long-term 'productivity gains' from the introduction of Atlas, the Home Office's new case working system. An evaluation which took place in October 2021 concluded that decision-making time had reduced by half due to Atlas.

7.17 Finally, ILR Operations has access to an HMRC income proving tool, which enables it to check somebody's employment and income where they are in salaried employment. Prior to 2019, only managers in ILR Operations were permitted to access this tool. However, since DMs had have access to the tool, inspectors were told that efficiency had improved, as DMs were no longer reliant on a manager to carry out the check.

58 The Bio-Reinjection Workflow team implemented an alternative to in-person bio-enrolments following the closure of biometric enrolment centres across the UK during COVID-19 lockdowns.
59 This team is also referred to as the FLR(M) team, as applications for further leave to remain are submitted on an FLR(M) form.

7.18 These initiatives have contributed to the reduction of the WIP to its current volume. However, most applicants continue to wait upwards of 19 weeks for a decision on their application, which, given the straightforward nature of most applications, remains excessive, particularly with the productivity gains from Atlas and DMs being more familiar with this system.[60]

Workflow and case allocation

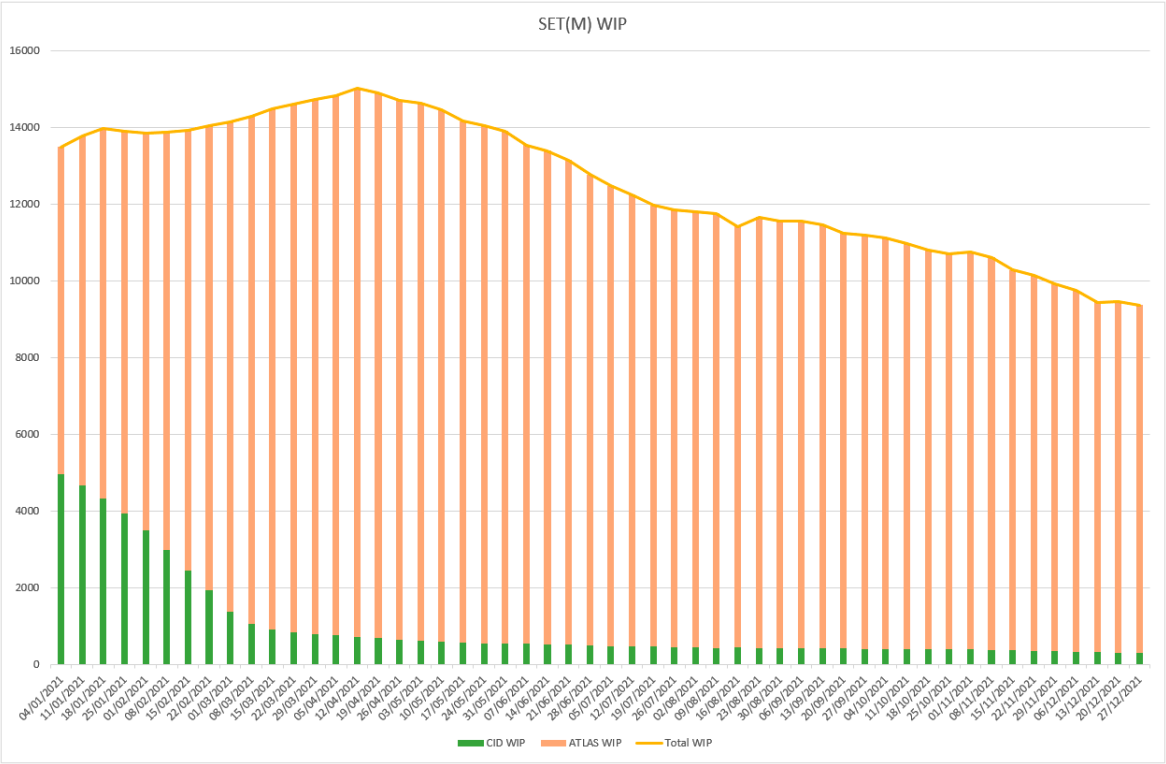
7.19 Workflow in ILR Operations is managed by the team of senior caseworkers (SCWs). This team perform several functions; they have line management responsibilities for decision makers (DMs), are responsible for quality assurance of decisions and report to the senior leadership team (SLT) on productivity and performance. There is a dedicated lead for training DMs and another lead for reporting performance to the SLT.

7.20 There are 2 workstreams in ILR Operations: the Case Information Database (CID) cases[61] and the Atlas cases. CID cases are historic, legacy cases, which are complex and have been deferred or 'brought forward' (B/F), as is the terminology used by the Home Office.

7.21 The CID case management is carried out by one dedicated SCW. Cases which remain in CID are, according to the Home Office "primarily complex", including, but not limited to, impending prosecutions, safeguarding cases and referrals to other units or external agencies. The Home Office states that "to ensure that these older cases are tracked and progressed where applicable, regular audits are taken where all remaining CID cases are checked to establish the current state of the CID WIP and determine which cases can be progressed". This is managed through a locally held database and regular data extracts from the Home Office's Performance Reporting and Analysis Unit (PRAU). The ILR Operations team had reduced the CID WIP from 4,981 to 325 between January 2021 and the end of December 2021, as illustrated by Figure 10, which was provided to the inspection team by the Home Office.

60 In its factual accuracy response, the Home Office stated: "As of w/c 02/05/2022, current processing time was 11 weeks. Applications are being processed within service standard and have been throughout the inspection period."
61 CID is the case working database previously used for all casework by the Home Office, but is being gradually phased out, as more teams move to Atlas.

Figure 10: ILR Operations WIP, broken down by CID and Atlas WIP



7.22 As at 31 January 2022, the CID WIP was at 303 cases.

7.23 The rest of the SCW team share responsibility for the Atlas workflow, which is rotated on a daily basis. The SCW responsible for workflow on the day accesses a list of cases each morning, which are ordered by the date the biometrics are submitted and whether the case has a standard service standard or is super priority.

7.24 SCWs said that they adjusted the number of cases they allocated based on how productive they knew the DM to be. Some DMs also have reduced targets due to workplace adjustments, so would be allocated fewer applications to decide.

7.25 DMs have a target of making 6 decisions per day and, whilst they told inspectors this was broadly achievable, they caveated this, and managers agreed, that it was dependent on the complexity of the applications allocated that day. However, applications are allocated 'blind' from the task list on Atlas, meaning that cases were not allocated based on the complexity of the case, to a suitably trained DM.

7.26 Where a case is allocated to a DM but a decision cannot be made because further information is required or the case is referred to another team in the Home Office, for a safeguarding or security referral, the DM marks the case as B/F. This is recorded on Atlas, where there are several further tasking actions which can be recorded, including a 'request an action from the applicant or sponsor'. On selecting this action, Atlas prompts the DM to set a deadline and decide if the application should be excluded from the service standard.

7.27 Inspectors reviewed 83 ILR applications where a decision had been made between 1 April and 30 September 2021. Of these cases, 90% (75) had paid for a standard service[62] and inspectors

62 In the same 6-month time period, ILR operations made 17,227 settlement decisions, of which 82% (14,090) paid for the standard service standard.

found that once the cases had been allocated, where no further evidence was required, every application was decided on the same day that it had been allocated. However, the applications submitted with a standard service standard were only considered for the first time on average 166.9 days after the application had been submitted, out of the 182-day (6-month) service standard.

7.28 Of the applications which had paid for the standard service, 38 out of 75 decisions were made within the service standard of 182 days (6 months). Of the 8 super priority cases, 6 (75%) were decided within the service standard, although there was a delay to enrol biometrics in one case. Of the 2 which were not decided within the super priority service standard, one was due to missing evidence and another to a pending police investigation.

7.29 In 17 of the 29 applications (59%) reviewed by inspectors where further evidence was requested, the DM selected the option on Atlas to apply an exclusion flag (or marked the case as B/F on CID) with the reason provided as 'customer delay' or 'non-casework delay'. However, inspectors concluded that in those cases, it is likely that, had the case been considered earlier in the service standard, correspondence with the applicant and a decision could have been made within 6 months.

7.30 ICIBI's 2015 'Inspection of Settlement Casework' identified similar issues where inspectors identified cases were being excluded from the service standard because further enquiries were not being initiated at the earliest possible stage.[63]

7.31 Cases on the Atlas task list appear in service standard date order. SCWs said that the super priority applications are allocated first each day, as they require consideration 1 working day after an applicant's biometrics are submitted. SCWs told inspectors they would be "looking at cases approaching service standard and sending reminders to caseworkers to make sure they are completed as a priority or else excluded from the service standard."

7.32 Excluding applications from the service standard risks, as has been highlighted in previous ICIBI reports, unfavourable outcomes for applicants whose case is approaching service standard and is labelled B/F. Inspectors identified such a case in their review of ILR applications. The applicant, a Pakistani national, submitted their application and biometric information in October 2020. The application had only completed 64 months out of the requisite 120 months on the 10-year route and therefore was ineligible for ILR. However, the DM wrote to the applicant requesting further evidence of employment, applied an exclusion flag using the 'further action' function on Atlas and the application was moved to B/F while the applicant gathered evidence. Regardless of the evidence submitted relating to their finances, this applicant would not be granted ILR, so this delayed the decision further.

7.33 Inspectors asked the Home Office to comment on why, if the additional evidence would not change the decision, it had been requested. Its response was: "This appears to be a process error. The applicant failed on time, so would have fallen for refusal of ILR and a grant of LTR regardless of whether the financial requirement was met."

7.34 Inspectors identified several applications which were not considered until they approached the end of the service standard. Straightforward applications, which eventually were decided in one day, remained in the WIP for more than 5 months until a decision was reached.

63 https://www.gov.uk/government/publications/inspection-report-on-settlement-casework-november-2015

7.35 Furthermore, inspectors identified cases in which applicants that had applied prematurely, and were therefore ineligible for ILR, did not find out until the application was first considered. Of the applications reviewed by inspectors, at least 9 were ineligible because they were on the 10-year route and had applied for ILR prematurely.[64]

7.36 Where the DM identifies that the application is not eligible for ILR but is or could be eligible for LTR, a 'further action' on Atlas must be raised to 'vary the application'. An automatic notification is then generated, which advises the applicant that their application is not going to be successful, but they should pay the Immigration Health Surcharge to indicate they are prepared for their application to be varied to one for LTR. Only when this is paid does it trigger the decision-making process to recommence and the difference between the ILR application fee and the LTR application fee is refunded.

7.37 Inspectors asked managers to comment on the lack of triage in place needed to identify ineligible applications or differentiate between complex and straightforward cases soon after an application is submitted. They said that this was something that they "tried to start doing pre-pandemic, then were just using any resource we had to get cases ready to assess".

7.38 The Case Preparation Team (CPT), who reports to the same G7 operational lead as ILR Operations, provides administrative support to 2 operational functions: LTR and ILR. Inspectors asked the Home Office to provide further information on the role of the CPT, relating to ILR applications. They were told that the CPT supports ILR Operations in 2 ways: validating cases and B/F case support.

7.39 In evidence provided by the Home Office, it said the validation of cases was introduced in mid-May 2021 in response to ILR Operations' growing WIP. CPT caseworkers were checking at the earliest opportunity, mandatory requirements such as whether English language and minimum income requirements were met, as well as identifying possible variations of leave.[65] Between mid-May 2021 and February 2022, 20,488 cases were validated and 641 of these were identified as requiring a variation of leave.

7.40 However, this activity was taking place on applications that had been submitted 11 weeks previously and management information for the week ending 30 January 2022 shows that decisions were still being made between 19 and 21 weeks after submission, indicating that this was not having a significant impact on reducing the decision time.

7.41 The validation of cases relies heavily on the use of the soon-to-be decommissioned CID, whereby caseworkers can note their activities and outcomes ready for a DM to decide the case. However, managers told inspectors that the new case working database, Atlas, does not allow for caseworkers to record their actions and outcomes. This issue has been raised with the developers of Atlas, but until this is resolved, the longevity of this support remains undecided. Furthermore, feedback sought from DMs by the CPT identified that DMs preferred to assess all the requirements themselves when considering cases, "mainly for quality assurance purposes", another reason why the future of this process remains unclear.

7.42 In November 2021, this team became responsible for monitoring and responding to emails in the central ILR inbox, where applicants are asked to send evidence which is missing from their original application. This change was designed to reduce the time DMs spend "chasing responses" from applicants, and in response to the impact of test centres for English language

64 Two further examples where applicant may have been eligible for ILR under long residency rules.
65 Where an application for ILR has been made in error, the applicant is contacted with the choice to apply on the correct route.

and other services being closed, leading to an increase in deferred cases, owing to the inability to obtain evidence to support their application. A CPT caseworker takes responsibility for contacting the applicant to obtain further information, as directed by the DM. Once the information is received, it is linked to the applicant's Atlas profile via a 'further action' and the DM is notified. The CPT are currently actioning cases on the same day they are instructed by DMs.

Atlas

7.43 ILR Operations began using Atlas in March 2021; prior to this they were using the Home Office CID. Operational managers and DMs were involved in the build of the Atlas functions used by ILR Operations. However, the system developed, and currently in use, is described by managers as a "minimum viable product". It templates the decision-making process such that a DM is required to give a 'yes' or 'no' response to prompts for the required information, such as whether the minimum income requirement is met or the knowledge of language and life in the UK (KoLL) test is passed. To answer the prompts, DMs review the evidence and application form. The responses to the prompts determine the subsequent questions and the overall outcome of the application, although DMs are able to override the template where concessions or discretion need to be applied, such as the COVID-19 concessions (evidential flexibility, exceptional circumstances, or finance) and that were in place over the course of the pandemic. Prior to this, DMs were required to input text into records on CID to evidence the consideration of an application.

7.44 The evaluation of the use of Atlas by DMs in ILR Operations, which took place in October 2021, determined that Atlas cut decision-making time, which contributed overall to an improved customer journey. It also concluded that Atlas promoted consistency in decision making. However, whilst the templating of decision making presented advantages, DMs reported that it was not easy to make notes outside of the template, which could be limiting. They expressed concern that where cases were not straightforward, there was no easy way to record their rationale for reaching a decision.

7.45 Further to being able to make general case working notes, there are also instances where a DM should seek approval or advice from an SCW. As at February 2022, much of this advice was provided via email, rather than being recorded on Atlas.[66] Managers also told inspectors that, outside of the specified list of cases that require SCW approval, DMs can also seek advice on an ad hoc basis, which could previously be recorded on the old casework database, CID. Whilst reviewing case files, inspectors also found that they are limited to no case notes for applications where 'SCW approval' was required,[67] but simply an indicator to say SCW approval was required and a subsequent entry to say the SCW approval had been granted.

7.46 The Post-Decision Team (PDT) is responsible for requests for reconsiderations[68] and actioning allowed appeals. They work on cases from all three teams: EC, LTR and ILR. Staff in PDT

66 The Home Office, in its factual accuracy response, stated: "Please note within Atlas, we can record further actions against a case where we can do things like seek advice from a local manager/further info from the customer/legal representative and put clear B/F dates for when we expect replies. This has free-text boxes where caseworkers can make clear notes and add updates as they need to. Caseworkers can add as many further actions to a case as needed and have multiple further actions open if needed."

67 There are currently 14 types of cases that require approval from a manager, also known as an SCW.

68 The Home Office, in its factual accuracy response, stated: "The Department identified that the reconsiderations policy has been applied to cases where the settlement application has been varied and the person has been granted permission to stay. It was not the policy intention that the reconsiderations policy should apply to this cohort. However, we accept that the guidance as drafted causes confusion both for applicants and caseworkers and that this has led to a small number of reconsiderations taking place. We will review and update the guidance to make the position clear on what redress is available to this cohort."

articulated the challenges they faced when having to revisit cases where a lack of case notes meant their understanding of the rationale for any decisions was limited.

7.47 Managers and caseworkers in the CPT also expressed similar concerns regarding the inability to record notes on Atlas and claimed it was for this reason that the team was unable to fully support ILR Operations through the early triaging of cases.

7.48 Overall, inspectors concluded that Atlas was most suitable for straightforward cases, but that its functionality did not support adequate record keeping for more complex cases, which are more likely to be challenged by applicants. These issues were also a finding in the ICIBI's 2015 'Inspection of Settlement Casework' where the previous casework database, CID, was in use, which speaks to a broader point of poor record keeping across the decision-making function. A senior manager in ILR Operations said that there are "still things to learn and test" with Atlas.

Service standard

7.49 Stakeholders and people with lived experience of the process expressed concern and a level of confusion with the rationale for the 6-month service standard. It was unclear to them why the last stage of the family visa process had a 6-month service standard when the applicant is already known to the Home Office. This was further compounded by the fact that decisions could be made in a day using the super priority service. Inspectors sought to clarify how the 6-month service standard had been assessed. Managers in ILR Operations were aware of the rationale and attributed it to a policy decision that was not within their control to change. In contrast, the Senior Civil Servant (SCS) for Marriage and Family told inspectors that it was 'inherited' from when these applications were decided by a team who also decided other types of ILR applications which all had a consistent 6-month service standard.

7.50 Risk registers from January to May 2021 contain an identified risk for ILR Operations, which refers to "the introduction of a reduced service standard (6 months to 60 working days)" which it states, "whilst supported by the rollout of Atlas, may place additional pressure on service standards should WIPs continue to increase and productivity remain supressed". It is graded as amber, a 'medium level' risk. However, this does not appear on the risk register from June 2021 onwards.

7.51 Inspectors asked managers in ILR Operations whether they were aware of any progress on this, but they were under the impression "these conversations have been parked". The Marriage and Family lead said that the service standards were being looked at by "a central team", who "are looking at external liaisons with that work". However, they had not received a recent update and were unable to provide any further details.

7.52 Stakeholders, including those with lived experience of the ILR application process, told inspectors that applicants' employers were often unsure of whether their permission to work continued while they awaited a decision on their application, as the Home Office did not provide written confirmation of this continuing leave, as set out in Section 3C of the Immigration Act 1971.[69] They said that this could be helped by a letter which explicitly set out that they could continue to work, as with the 'Certificate of Application', provided to individuals who submitted an application to the European Union Settlement Scheme.[70] In a focus group,

69 https://www.legislation.gov.uk/ukpga/1971/77/section/3C
70 https://www.gov.uk/government/publications/eu-settlement-scheme-communications-information-for-applicants/eu-settlement-scheme-information-for-eu-settlement-scheme-applicants-accessible-version

one person who had been through the process said that they "almost got sacked and had to get the union involved" to continue in their position.

7.53 Inspectors also found an example of this issue in one of the 83 cases they sampled, where the applicant wrote a letter to the Home Office almost 4 months after submitting their application, which said:

> "I have been facing a problem of employers refusing to offer me employment because I have no proof that my visa application is with the Home Office… It's made my life so difficult to the extent I will be homeless very soon."

7.54 The applicant had also lodged a complaint, which the Home Office had responded to, stating that it was unable to uphold the complaint, as the application remained within the standard processing time. However, it signposted the applicant's employer to the Employer Checking Service (ECS):

> "It may also be helpful if I explain that there is a service for employers where they can carry out right to work checks, when their current or prospective employee has an outstanding immigration application."

7.55 People with lived experience of the application process also expressed frustration that they did not receive an update on the progress of their application, which limited their ability to plan ahead. This is especially true for making plans to travel, as applicants are not permitted to travel outside the Common Travel Area while they await a decision on their application. If they do, their application will be withdrawn by the Home Office. Examples were provided to inspectors where applicants were unable to travel to visit relatives who had fallen ill during the period they waited for a decision to be made.[71]

7.56 In another application examined by inspectors, an applicant, who had submitted their application on 1 June 2020, enrolled their biometrics on 11 November 2020. They then emailed the Home Office on 20 April 2021, 5 months after enrolling biometrics, requesting an expedited consideration of their application so that they could travel abroad for their son's funeral. The Home Office responded to the applicant on 21 April 2021 asking for evidence of the "compassionate circumstances". The applicant submitted their evidence on the same day and on 22 April 2021 the Home Office considered the case. The applicant had not passed the Life in the UK test and so they were refused ILR but granted LTR to allow them time to pass the test, but also to travel for their son's funeral. Whilst inspectors acknowledged the swift conclusion of this application and the sensitive language used in all correspondence, this application presented an example of some of the challenges applicants can face whilst awaiting a decision.

7.57 ICIBI's 2015 'Inspection of Settlement Casework' also described the 6-month service standard as "generous" and stressed the importance that all cases, straightforward or complex, are "progressed and resolved as quickly as possible". It made a recommendation on the service standard: "Introduce shorter service standards for straightforward postal applications for settlement." The Home Office did not accept this recommendation and said:

> "As of April 2015, workable settlement applications are being decided on average in less than 11 weeks. The six months is a maximum timeline, not an average, and we offer options such as a premium service … We intend to introduce a system which clearly differentiates between straightforward and more complex applications at the point of application and

71 In its factual accuracy response, the Home Office stated: "There is a process in place to expedite an application where the applicant provides evidence that there are exceptional or compassionate circumstances."

ensures that all appropriate checks and enquiries are completed in a timely manner. At that point we will review our service standards." [72]

7.58 When senior leaders were asked to comment on the impact of long waiting times for the applicant, they were sympathetic but reiterated that they remained somewhat removed from the process of setting the service standard. And whilst inspectors accepted this, they concluded that there was less incentive for the team to prioritise reducing the service standard, where it offered flexibility to allow for inefficient workflow. The team could be more ambitious in their goal to reduce decision-making time further than pre-pandemic times. It would be encouraging to see greater engagement with the impact on the applicant in this respect, particularly now the team is seeing the productivity benefits from Atlas begin to be realised.

72 https://www.gov.uk/government/publications/home-office-response-to-the-report-on-an-inspection-of-settlement-casework

8. Inspection findings: decision-making

8.1 Home Office data provided to the inspection team showed that the grant rate for applications for indefinite leave to remain (ILR) on the basis of family life as a partner or parent of a settled person peaked at 97% in 2021, upwards of 95% in 2019 and 2020.

8.2 ILR is commonly described as a 'compliant route' by the ILR Operations team, who said that this is not considered to be an application type which is 'abused' by non-genuine applicants. They described decisions as mostly straightforward because, at the point of applying for ILR, the applicant will have already successfully demonstrated their relationship to the sponsor and met other requirements in at least 2 preceding applications.

8.3 The principal guidance used by Home Office decision makers (DMs) is 'Family Policy – Family life (as a partner or parent) and exceptional circumstances', the most recent version of which was published on 7 December 2021. It stipulates that each applicant "must receive consideration of their family and individual circumstances, taking into account all matters raised on a case-by-case basis". [73]

8.4 DMs should refer to the following Family Migration guidance, when assessing whether the applicant meets the financial and adequate maintenance requirement:

- 'Appendix FM Section 1.7 Appendix Armed Forces – Financial requirement', published 7 December 2021[74]
- 'Appendix FM Section 1.7A – Adequate maintenance and accommodation', published on 7 December 2021[75]

Immigration Health Surcharge

8.5 Applicants do not have to pay the Immigration Health Surcharge (IHS) when they apply for ILR, as it is not a requirement for a person with settled status. However, the Operational Policy Instruction (OPI), 'Immigration Health Surcharge (IHS) refunds', sets out that, where an application for ILR is refused, but the applicant is eligible for a further period of limited leave to remain (LTR), the DM must send an 'IHS write out'. This is a letter or email which is sent to the applicant explaining that they are unlikely to be successful in their ILR application but that it will be treated as an application for LTR, provided they pay the IHS fee. As at March 2022, the IHS was £624 per adult, per year, and £470 per child, per year. As LTR is granted for a period of 30 months (2.5 years), this would be £1,560 per adult and £1,175 per child.

8.6 The applicant should then be refunded the difference between the application fee for ILR, £2,389 per person, and LTR, which is £1,033 per adult, and the same for each dependent child.

73 https://www.gov.uk/government/publications/family-life-as-a-partner-or-parent-private-life-and-exceptional-circumstance
74 https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members
75 https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

8.7 The Home Office provided inspectors with a list of complaints and MP enquiries received in 2020 and 2021. In 2020, 44 out of 582 (7.56%) related to the refunding of application fees and in 2021,[76] 51 out of 734 (6.95%).

Decisions and evidential flexibility

8.8 Inspectors reviewed 83 ILR applications made under Appendix FM where a final decision had been made by the Home Office between 1 April 2021 to 30 September 2021, broken down by:

- 20 that had been granted ILR and met all suitability and eligibility grounds
- 20 that had been refused ILR, but granted Family and Private life LTR (10-year route)
- 20 that had been refused ILR, but granted LTR on the 5-year transitional route
- Three that had been refused ILR, but granted leave outside the Immigration Rules (the Rules) or discretionary LTR[77]
- 20 cases where a COVID-19 concession was granted

8.9 With an ILR grant rate of upwards of 95% since 2019, the applications sampled are not intended to be proportionally representative of decisions, nor are findings assumed to have statistical significance. Instead, they are intended to offer a snapshot into the quality and integrity of decisions being made in different categories.

8.10 Through this review, inspectors sought to understand:

- the extent to which decisions are being made within the service standards and that any pauses on the application are reasonable
- whether decisions are well-evidenced by the DM, with a clear rationale provided
- the extent to which decisions are clearly communicated
- the extent to which the impact of the decision is considered on the applicant and their family is considered
- whether the Home Office's statutory duty under Section 55 of the Borders, Citizenship and Immigration Act 2009 is upheld, to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK

8.11 Inspectors also sought to understand whether the ILR Operations team had taken learnings from Wendy Williams' 'Windrush Lessons Learned Review' (WLLR), following the commitments made by the Home Office in its response to the review, set out in its 'Comprehensive Improvement Plan'.[78]

8.12 The Comprehensive Improvement Plan organises the recommendations into themes. One theme, "A more compassionate approach" is, according to the Home Office, about "putting people first in everything that we do" and to be "balanced and fair with the people we interact with and give the department a human face". The recommendations in this theme focus on improving the Home Office's culture and the way it works, as well as on changes to be made, for example, on "the use of discretion, ethics, the burden of proof". [79]

76 Up to 23 November 2021.
77 Only 3 cases were decided on this basis in the specified time period.
78 https://www.gov.uk/government/publications/windrush-lessons-learned-review-response-comprehensive-improvement-plan
79 https://www.gov.uk/government/publications/windrush-lessons-learned-review-response-comprehensive-improvement-plan

8.13 Within Appendix FM-SE, there is provision for DMs to exercise 'evidential flexibility' to consider evidence which has been submitted after the date of the application in specific scenarios, and for them to contact the applicant to request documents which would lead to a grant:

> "(b) If the applicant:
>
> (i) Has submitted:
>
> 1. (aa) A sequence of documents and some of the documents in the sequence have been omitted (e.g. if 1 bank statement from a series is missing);
>
> (bb) A document in the wrong format (for example, if a letter is not on letterhead paper as specified); or
>
> (cc) DELETED
>
> (dd) A document which does not contain all of the specified information; or
>
> (ii) Has not submitted a specified document, the decision-maker may contact the applicant or his representative in writing or otherwise, and request the document(s) or the correct version(s). The material requested must be received at the address specified in the request within a reasonable timescale specified in the request.
>
> (c) The decision-maker will not request documents where he or she does not anticipate that addressing the error or omission referred to in sub-paragraph (b) will lead to a grant because the application will be refused for other reasons."[80]

8.14 Managers in ILR Operations told inspectors that they encouraged within their teams an approach whereby they should exercise 'evidential flexibility' where there was provision to do so within the Immigration Rules (the Rules) and in guidance, which appeared to be in line with the 'compassionate approach' described in the Comprehensive Improvement Plan. DMs agreed that they were, more recently, encouraged to write to the applicant more than twice to ask them to provide documents that would support a grant of ILR or LTR.

8.15 One DM said:

> "When I first started, it was very black and white, but it has changed in the last couple of years. We look at the case as a whole now. Obviously [the applicants] still have to meet the criteria, but we consider the person too. If they haven't provided absolutely everything, we can be flexible. We don't just write and ask for information, we try and do our best to help them."

8.16 The HMRC income proving tool (IPT) provides further opportunity for DMs to apply evidential flexibility, as the 'financial requirement' guidance stipulates that discretion can be exercised where a document does not contain all the specified information, but the missing information is verifiable from another source.[81] The application of this was illustrated in a decision on an ILR application reviewed by inspectors, which did not meet the minimum income requirement (MIR) but was granted ILR. Commenting on this, the Home Office stated:

> "Where IPT is used we should also have evidence of ongoing employment, however, where this is not provided evidential flexibility can be used."

80 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-se-family-members-specified-evidence
81 https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members

8.17 The IPT does not provide information on applicants who are directors, meaning that there is less opportunity for DMs to apply evidential flexibility in these cases.

8.18 When inspectors asked whether they felt this shift in approach had been as a result of the WLLR, DMs suggested that the increased flexibility had rather come as a result of COVID-19, where applicants might have had more difficulty obtaining evidence.

8.19 Stakeholders told inspectors that they had observed a recent change in approach, which they welcomed: "[DMs] are more proactively chasing people up for information rather than refusing applications outright" and particularly in instances where the DM "is of the view that further evidence is required in order to make a positive decision".

8.20 In the applications reviewed by inspectors, they found that DMs were proactive in writing to applicants where evidence was missing. In the 32 cases where evidence was missing, 29 (90.6%) applicants were sent an email, giving them an opportunity to provide the evidence, as demonstrated in case study 1.

Case study 1: Evidential flexibility

Overview:
The applicant, an Ethiopian national, submitted an application for ILR in March 2021, as the spouse of a British citizen. The application was considered by the Home Office in August 2021.

The applicant had not provided all of the requisite evidence of her husband's income and company's tax returns, which were required as he was the sole director of the company.

The Home Office sent an email to the applicant, requesting:

- company tax return CT600 (a copy or printout) for the last full financial year and evidence this has been filed with HMRC, such as electronic or written acknowledgment from HMRC
- payslips covering the same period as the company tax return CT600
- dividend vouchers for all dividends declared in favour of the person during or in respect of the period covered by the company tax return CT600 showing the company's and the person's details, with the person's net dividend amount

The DM wrote that "to enable the application to be considered fully and promptly we need the above documents as soon as practically possible".

The applicant provided the documents 2 weeks later and was granted ILR the following day.

ICIBI comment:
This is a positive example of a case which benefited from the DM writing to the applicant to request missing evidence, which led to a grant of ILR.

8.21 Staff told inspectors that they were proactive in identifying cases which could be 'varied', which means if an application for ILR will not succeed, where it is clear that an applicant is eligible for a grant under a different category, such as further leave to remain (FLR). In such a case, the DM would advise the applicant of this in writing and vary their case, with their consent.

8.22 However, inspectors identified a case which had the potential to be varied but was instead placed on the 10-year route:

Case study 2: Potential to vary a case
Overview: In January 2016, the applicant, a national of St Lucia, was granted an initial period of 30 months on the 10-year route. In July 2018, an application for LTR was granted for a period of 30 months, this time on the 5-year route, as they met all the eligibility requirements. In January 2021, an application for ILR as the spouse of a British citizen was submitted. By then, they had only completed 29 out of the required 60 months on the 5-year route as the period spent on the 10-year route does not count towards the requisite continuous period. Thus, they had not completed sufficient time on either the 5-year or 10-year route. The applicant provided evidence of meeting the MIR and their relationship with the sponsor. Although the Home Office did make efforts to contact the applicant and told them to consider withdrawing this application and submitting an application for FLR, the case could have been varied to an LTR application based on the existing application, to keep the applicant on the 5-year route.
Home Office response: Inspectors asked the Home Office to comment on this case: "The overall decision to grant LTR was technically correct as the applicant did not meet on time on the 5-year route however, it is accepted that this could have been varied to an LTR application to allow for the customer to remain on the 5-year route to settlement. Steps were taken on 14th July 2021 to contact the customer and allow an opportunity to withdraw. No response was received. We will reconsider the decision, with a view to the customer being placed onto the 5-year route."
ICIBI's comment: Had it not been highlighted by inspectors that this applicant could have remained on the 5-year route, they may have had to complete a further 7.5 years in order to settle on the 10-year route, as the Home Office had not been proactive in varying their case. As at March 2022, there was no record on Atlas to suggest the applicant had been notified of the reconsideration of this decision.[82]

COVID-19 concessions

8.23 The Home Office introduced several COVID-19 concessions from January 2020.[83] Instructions to DMs were provided in a series of Operational Policy Instructions (OPIs), outlining how they should consider applications where COVID-19 had impacted the applicant's ability to meet eligibility or evidential requirements. These OPIs were continually amended up to 11 June 2021, reflecting successive decisions to extend the concessions, which applied until 31 October 2021. Guidance on GOV.UK states:

82 In its factual accuracy response, the Home Office stated: "We will again write and offer the opportunity for this case to be varied to FLR(M)."
83 The first concession introduced was for Chinese nationals and non-Chinese, non-European Economic Area nationals living in China but with leave in the UK, and who were unable to depart the UK. The Home Office extended their leave until 31 March 2020 without the need for a fresh application or Biometric Residence Permit (BRP).

"The concessions have not been extended beyond 31 October 2021. Any income loss after this date will not be taken into account within the financial concessions listed above and applicants will be expected to meet minimum income and adequate maintenance requirements as per pre-pandemic levels."

8.24 The guidance provided examples of where there may be exemptions to the usual ILR rules, where, for example, the applicant had been unable to travel back to the UK due to COVID-19 travel restrictions, or they had a loss of income owing to COVID-19 or furlough.

8.25 The concessions did not continue to apply beyond 31 October 2021. As such, any income loss after this date would not be taken into account within the financial concessions and applicants "will be expected to meet minimum income and adequate maintenance requirements as per pre-pandemic levels".

8.26 Data provided by the Home Office showed that, in 2020, there were a total of 13 records of COVID-19 concessions applied in 2020; this went up to 97 in 2021. Inspectors asked the Home Office why the numbers were low, and it was suggested that it could be that concessions had been applied without the DM having recorded it on Atlas, so it would not have been identified in the data set.

8.27 Inspectors reviewed 20 cases where a decision had been made between April and September 2021, where a COVID-19 concession had been applied and the applicant was granted ILR. These were positive outcomes for applicants, who would otherwise have been refused under the rules in Appendix FM.

8.28 Case study 3 provides an example of a COVID-19 concession being used to allow for a gap in employment:

Case study 3: Use of COVID-19 concession

Overview:
In October 2020, the applicant, an American national, submitted an application for ILR as the spouse of a British citizen.

The applicant submitted a letter from their legal representative which stated they were unable to enrol their biometrics because they were shielding due to COVID-19.

For the same reason, the letter explained they had been required to take a short period of absence from work and there was a subsequent gap in their period of employment, which would ordinarily mean their application would be refused.

In April 2021, their case was considered by a DM. The DM referred to COVID-19 concessions guidance contained in the OPI, which states that ILR could be exceptionally granted where the applicant's "circumstances do not exactly fit one of these concessions, but who you decide should not be disadvantaged as a result of circumstances beyond their control".

The case was referred to a senior caseworker (SCW) for approval, who agreed to grant ILR.

ICIBI's comment:
This is a good example of the Home Office using the COVID-19 concession to exercise discretion where the applicant had a break in work but still met the MIR.

8.29 Inspectors asked the Home Office whether the onus was on the applicant to indicate they were eligible for the concession to be considered. The Home Office responded:

> "We did see claims for concessions raised by the applicant. Usually, a covering letter asking us to take into consideration that their employment had been impacted by COVID or that they have not been able to take the Life in UK etc. The applicant/rep usually made this clear within the application. If it was not stated within the application, the decision maker would always try and apply the concession by raising it with an SCW and referring to OPI 1004."

8.30 Inspectors asked the Home Office to provide data on the volume of applicants who had requested the concession but had this request refused. The Home Office stated:

> "There isn't a category which would state if the applicant asked if they are eligible for the concession and we rejected it. That wouldn't be recorded anywhere other than in the IHS letter or case notes. We ensured DMs were aware to be pragmatic when anything around COVID-19 was raised and engaged with applicants to clarify any points that had been raised around concessions."

5-year transitional route

8.31 'Appendix KoLL: Knowledge of language and life' of the Rules sets out how someone applying for indefinite leave to enter (ILE) or ILR "must demonstrate sufficient knowledge of the English language and about life in the United Kingdom".[84]

8.32 The Home Office told inspectors that all applicants failing to meet the requirements of KoLL are first given the opportunity to take the KoLL test or English language test after submitting their application, "as part of the customer-centric approach", if they have not demonstrated a pass at the time of consideration. It said they are usually given 28 days, but DMs can exercise discretion if the applicant is waiting to sit a test.

8.33 Where an applicant is unable to do so but where they meet the other requirements for ILR under Appendix FM, there is provision for them to be granted limited leave to remain, but rather than be moved onto the 10-year route, remain on the 5-year route to settlement. Home Office staff told inspectors that they were able to apply greater leniency both in cases where the applicant could not provide evidence of having passed the KoLL test, or where they had committed a "minor offence".

8.34 Provisions for this are contained in Appendix FM at 'Section D-ILRP: Decision on application for indefinite leave to remain as a partner':

> "D-ILRP.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a partner only for one or both of the following reasons-
>
> (a) paragraph S-ILR.1.5. or S-ILR.1.6. applies;
>
> (b) the applicant has not demonstrated sufficient knowledge of the English language or about life in the United Kingdom in accordance with Appendix KoLL,
>
> subject to compliance with any requirement notified under paragraph GEN.1.15.(b), the applicant will be granted further limited leave to remain as a partner for a period not exceeding 30 months, and subject to a condition of no recourse to public funds."

84 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-koll

8.35 Paragraphs S-ILR.1.5. and S-ILR.1.6 set out the suitability requirements which could be overlooked with a view to granting on the '5-year transitional route':

> "S-ILR.1.5. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years has passed since the end of the sentence.
>
> S-ILR.1.6. The applicant has, within the 24 months prior to the date on which the application is decided, been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record."

8.36 In practice, this means that applicants who are unable to evidence KoLL at the time of submitting the application, or who have committed a criminal offence as described above, but who otherwise meet the eligibility requirements and do not fall for refusal under the other suitability requirements, could be granted a period of limited leave to remain under the '5-year transitional route'. This keeps them on the 5-year route to settlement, rather than having to move onto the 10-year route.

8.37 In principle, this outcome would be beneficial to the applicant, as they are given the opportunity to attempt to resit the KoLL exam before the end of their period of limited leave and reapply for ILR if they were successful, although staff told inspectors that it was "rare" that somebody would do so. Otherwise, and more commonly, they could make an application for ILR after a period of 30 months, thus having completed a total of 7.5 years on the 5-year route. Figure 12 illustrates the percentage of all decisions made each year, from 2019 up to 7 February 2022, that were granted on the '5-year transitional route'.

Figure 12: Percentage (%) of total decisions that were granted on the '5-year transitional route'	
2019	2.61%
2020	0.89%
2021	0.62%
2022	0.35%

8.38 Stakeholders provided examples of cases in which their client met the MIR when making their initial application for entry clearance or LTR, but who, when it came to the point at which they would be required to make an ILR application, were no longer able to, because either: the applicant's salary had reduced due to reasons outside their control and they no longer met the MIR, or they had become self-employed, but had not yet completed at least 1 year of self-employment by the time they submitted the ILR application, even though they may otherwise have met the financial threshold.

8.39 One stakeholder referenced a "failure of the Home Office to provide any framework for exercising discretion in relation to the financial requirements, including the requirements in relation to self-employment", which they said is "disproportionate and arbitrary", as the Rules permit flexibility in relation to other 'settlement marriage' (SET(M)) requirements, such as KoLL.

8.40 However, Home Office guidance states that:

> "Decision-makers cannot exercise any discretion or flexibility with regard to the level of the financial requirement that must be met. It is a matter of public policy to operate a financial

requirement based on a minimum income requirement for the sponsorship of partners and children. It must be clear and consistently applied in all cases."[85]

8.41 The inspection team asked for evidence of any feedback loops with the Family Policy team, which could inform their understanding of the operational reality, use of and impact of this policy. In its response, the Home Office stated:

> "Where a case presents an issue with the interpretation of Appendix FM, it may be necessary to refer to the Family Policy team for clarification and guidance."

8.42 There was scant evidence of opportunities for operational teams to provide meaningful feedback on the policies, insofar as their impact on the applicant, or data on the numbers granted on this basis. However, inspectors were told that the Family Policy team would be contacted where advice was required on how to decide a complex case.

Knowledge of language and life in the UK waiver

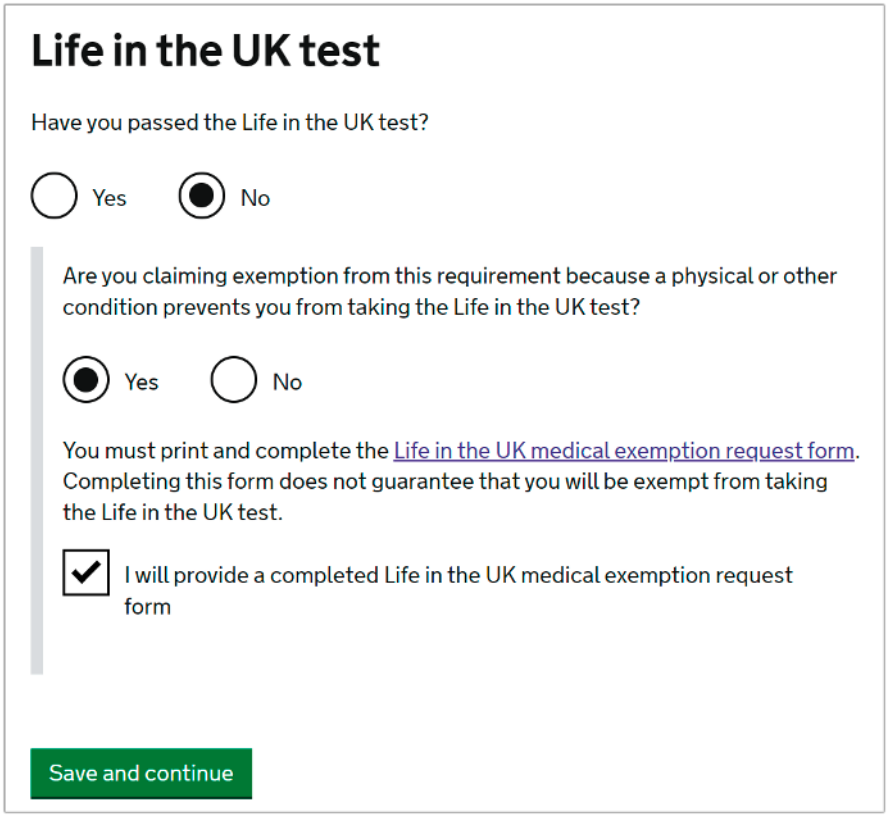
8.43 Appendix KoLL also sets out "general exemptions to the requirement on grounds of age [those under 18 or over 65 are not required to sit the test] and enables the decision maker to waive the requirement in light of special circumstances in any particular case",[86] such as where the applicant is unable to sit the KoLL test due to a mental or physical illness or condition.

8.44 Where an applicant believes they are exempt due to a medical condition, they must apply for a KoLL waiver to demonstrate their exemption. The waiver form is on the GOV.UK website,[87] although not on the 'Indefinite leave to remain if you have family in the UK' page, where information on ILR applications and eligibility requirements can be found. It must be completed by "a General Medical Council registered medical practitioner who is able to comment on the individual's condition".[88]

8.45 A link to the exemption form is contained within the online application form, where the applicant is asked whether they have passed the KoLL test. If they click 'no', they are asked whether they are claiming exemption from this requirement because a physical or other condition prevents [them] from taking the KoLL test, as demonstrated in Figure 12 below. Upon clicking 'yes', a link to the form is provided.

85 https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members
86 https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-koll
87 https://www.gov.uk/government/publications/life-in-the-uk-test-exemption-long-term-physical-or-mental-condition
88 https://www.gov.uk/government/publications/life-in-the-uk-test-exemption-long-term-physical-or-mental-condition

Figure 12: Life in the UK test, ILR application form



8.46 There were 6 cases from the applications examined by inspectors where the applicant had applied for a KoLL waiver. In just one of these cases, the waiver was accepted and the applicant was granted ILR. The other 5 were granted LTR on the 5-year transitional route, as the waiver was not accepted.

8.47 The high threshold for a KoLL waiver was illustrated in applications and decisions reviewed by inspectors. In one case, the applicant's GP had filled in the waiver, stating that the applicant had difficulty communicating, suggesting a "possibility of learning difficulty or dyslexia". This was refused by the Home Office, as the applicant had not been formally diagnosed. In another case, the applicant had applied on the basis of experiencing symptoms from fertility treatment which included "poor sleep, unable to sit or lie down for over 30 minutes, unable to do activities of daily life due to nausea and vomiting, unable to concentrate or attend classes due to symptoms" which, the GP wrote "would prevent her from learning". In its refusal to grant the waiver, the Home Office stated:

> "In order for a KoLL exemption to be granted, an applicant must be suffering from a long-term illness or disability that severely restricts their ability to learn English or prepare for the Life in the UK test... The evidence that you have provided indicates that this is not a long term/permanent condition as per the discretion criteria set out in the KoLL guidance.
>
> ... furthermore, the KoLL materials are available in different formats and people are able to learn the information at their own pace. The test centre may also be able to make reasonable adjustments when applicants sit the test such as allowing for regular breaks. Therefore, the KoLL waiver requested has not been accepted."

8.48 The applicant provided further evidence from their GP, which the Home Office refused:

> "The additional information you have provided has been assessed by a senior manager however unfortunately, your case still does not meet the exceptionally high threshold for us to apply a KOLL exemption."

8.49 The Home Office did, however, communicate frequently with the applicant and give them the option to take the test at a later date.

8.50 In another case, the waiver request was refused without an explanation being provided to the applicant. Inspectors asked the Home Office to comment on this case and were told:

> "Reasons for the KoLL Waiver Refusal are as follows: The doctor has stated that the applicant is able to study (response to question 4 on KoLL Waiver) but under exam conditions severe stress triggers loss of concentration. This did not meet the threshold – the applicant had attempted to pass the LIUK on 6 occasions. We have attached an email chain where the applicant is requesting to be granted LTR as soon as possible as she wanted to visit her sick mother in Pakistan.
>
> We accept the reason for KOLL exemption refusal was not communicated on this occasion."

Parent and child applications

8.51 It is possible for somebody to make an application under Appendix FM as the parent of a British or settled child. However, Home Office guidance states that, where they would also be eligible to make an application as a partner or spouse, that would preclude them from being able to apply on the basis of their relationship with their child:

> "The parent route is not for couples who are in a genuine and subsisting partner relationship. An applicant cannot meet the parent route if they are or will be eligible to apply under the partner route, including where for example the definition of partner cannot be met, or other eligibility criteria for access to a 5-year route are not met. Applicants in this position must apply or will only be considered (where they are not required to make a valid application) under the partner route or under the private life route."[89]

8.52 As at February 2022, there was no provision under Appendix FM for somebody who starts the route to settlement as a partner to switch to the parent route, where the relationship with the other parent breaks down. Thus, in these instances, parents must recommence the journey to settlement under Appendix FM. This means that they would have a further 5 years, at least, where they must continue to pay the IHS, and with no recourse to public funds (NRPF).

8.53 Applicants are not able to decide to apply as a parent from the outset if they are in a relationship with the child's other parent. Stakeholders argued that this was not in favour of the 'best interests of the child'. On this point, an organisation representing migrant children said:

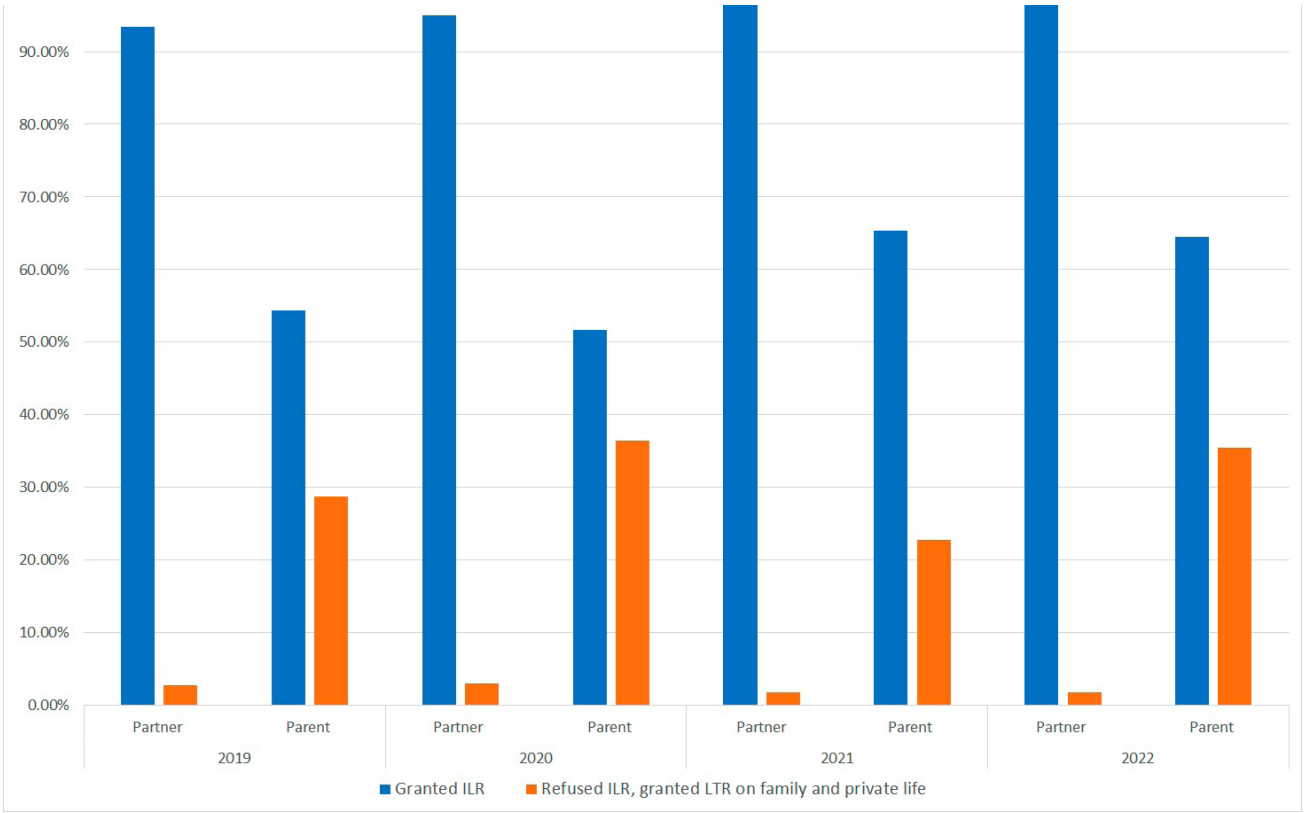
> "It is not at all clear how this policy can be compliant with the Home Office's duties under s.55 of the Borders, Citizenship and Immigration Act 2009… Refusing the legal and biological parent of a British citizen child leave to remain on the basis of the relatively non-durability of their relationship with a British Citizen partner, for example, would ride roughshod over any attempt to meaningfully consider the child's best interests."

89 www.gov.uk/government/publications/family-life-as-a-partner-or-parent-private-life-and-exceptional-circumstance

8.54 In the data provided to inspectors by the Home Office, the volume of applications for ILR under Appendix FM as a parent was 0.6% in 2019, 1% in 2020 and 1.2% in 2021.

8.55 A far greater proportion of those who applied for ILR as parents were granted on the 10-year route, than those applying as a partner, as demonstrated in Figure 13 below.

Figure 13: Proportion of decisions granted ILR vs Family and Private life LTR on partner compared with parent applications



9. Inspection findings: communication with applicants

Decision letters

9.1 Home Office data shows that less than 3.5% of applications for indefinite leave to remain (ILR) are refused ILR but granted leave to remain (LTR) based on Family and Private life, on the 10-year route, as illustrated by Figure 14.

Figure 14: Percentage of total decisions that were refused ILR, but granted Family and Private life LTR	
2019	2.80%
2020	3.21%
2021	1.90%
2022	2.19%

9.2 In these cases, a decision letter is sent to the applicant informing them of the decision and explaining why they do not qualify for ILR. This is preceded by a notification, usually by email, which requests they pay the Immigration Health Surcharge (IHS), with an annexed explanation of why they do not meet the requirements for ILR.

9.3 Home Office guidance states:

> "The decision letter should be clear about the information considered, including evidence submitted by the applicant, together with any relevant guidance considered as part of the assessment under the rules."[90]

9.4 The ICIBI's 2015 'Inspection of Settlement Casework' found that "refusal notices did not always set out the reasons for refusal clearly, succinctly and accurately, such that applicants refused settlement could understand the basis for the decision".[91] This inspection again found that the explanations provided in decision letters were not written in a way which would be easy for most to understand, particularly where English was not the applicant's first language. Rather, the letter cited the Immigration Rules (the Rules) as the sole explanation for the decision, with little comment as to what this meant for the applicant in practice, or personalising it to their specific circumstance. Decision makers (DMs) were aware that the current correspondence was problematic:

> "I think you do get a lot of people who, where we tell them that they are not able to meet ILR requirements, they don't read the whole letter, just the first few sentences. I think the information is overwhelming to read, not that it's not available, just not as accessible as it should be."

90 www.gov.uk/government/publications/family-life-as-a-partner-or-parent-private-life-and-exceptional-circumstance
91 https://www.gov.uk/government/publications/inspection-report-on-settlement-casework-november-2015

9.5 DMs further highlighted that the language used in decision letters, which they said could "contain a lot of legal jargon", had caused confusion for applicants, who "are not going to know the Immigration Rules and paragraphs".

9.6 One legal professional told inspectors: "The letters are complicated and a lot of people do not know why they have been put onto the 10-year route." In the decision letters which inspectors reviewed, not only were the reasons not presented clearly and simply, but they also found that, where the applicant had been refused ILR but granted another form of leave, the next steps for their route to settlement were unclear and not presented in plain language. This could be mitigated with the addition of wording in simple, plain English, which said why they did not meet the requirements.

9.7 DMs provided examples of applicants who had made premature applications for ILR as they had not understood which route they were on. Inspectors also saw evidence of this in correspondence from an applicant to the Home Office, requesting clarification on this, as illustrated in case study 4.

Case study 4: Complex language used in a decision letter

Overview:
The applicant, who is a national of Kenya, entered the UK on an entry clearance permit in June 2015 to join their British spouse. They were placed on the 10-year route to settlement, as they were unable to meet the minimum income requirement (MIR) at the time of the application.

In July 2018 they were granted a further period of Family and Private life LTR. In December 2020 they applied for ILR.

Just under 6 months later, in June 2021, their case was considered. The applicant did not meet the requirements for settlement, principally because they had not completed the requisite time on the 10-year route.

In June 2021 an 'Immigration Health Surcharge (IHS) write out'[92] was sent to the applicant, stating that they did not meet the requirements to be granted ILR, but that the Home Office was "satisfied that [they] would fall to be granted limited leave to remain of 30 months on the basis of RLTRP.1.1 (a), (b) and (d) of Appendix FM, were [they] to make a valid application for such leave", and should pay the IHS for their application to be considered for further leave to remain (FLR).

The letter states that the detailed reasons for this would be set out in Annex A. Firstly, Annex A sets out the applicant's immigration history. Then, it goes on to cite the eligibility requirements for ILR from Appendix FM for a partner, with an explanation as to why the applicant did not meet that requirement. However, in the explanations, it referred back to the Rules, without any non-legalistic commentary, which could make it easier to understand.

The Home Office's response was:
Inspectors asked the Home Office to comment on the language used in the decision and ease of understanding for applicant. The Home Office stated: "The letter gives full reasoning of the decision and next steps. The Immigration Rules have to be stated in all decision letters."

92 This terminology is used by the Home Office to describe a letter which is sent to applicants explaining that they do not qualify for ILR but an application for further leave to remain would be granted, subject to paying the IHS.

Case study 4: Complex language used in a decision letter

ICIBI comment:
While it is acknowledged that the Immigration Rules must be used to support any decision, it is not accepted that there could not be the addition of a simpler explanation for an applicant, particularly where they made an application they would not qualify for. The information, as presented currently, is not easy to understand for someone who is not used to reading the Rules.

9.8 In cases where an applicant begins their journey on the 5-year route to settlement but does not meet the requirements when they come to apply for ILR and so are moved onto the 10-year route, they can switch back onto the 5-year route if they later become eligible. Stakeholders highlighted that this was often unknown to the applicant, stating "it should be very clear that you can switch back [to the 5-year route]… especially in the uncommon circumstance that someone is not in employment at the time of application". Although from the data it is evident that this situation is not common, it is no less important for those who it does impact.

9.9 In one case where an applicant had been moved onto the 10-year route as a result of being unable to evidence meeting the MIR, inspectors asked the Home Office to comment on whether the applicant had been made aware that they could 'switch back' onto the 5-year route if they became eligible before the end of the limited period of leave granted. The Home Office said that the applicant had not been informed that they could 'switch back' onto the 5-year route if they met the MIR.

9.10 The Home Office response was:

> "Prior to the last decision, the customer had completed a continuous period of 60 months on the Spouse/Partner route. The last grant was made under the Family/Private life route to a failure to meet the MIR.
>
> As the customer has that "banked" period of continuous leave on the 5 year route and the failure to be granted ILR was not time related, the 10-year route does not preclude them for applying for ILR at any time during that period of leave if they can demonstrate they have addressed the reason for failure in this case MIR and continue to meet all other suitability and eligibility requirements and submit a paid application.
>
> It is not currently made clear in our grant letters that this course of action is open to them."

9.11 Similarly, it was not made clear to applicants that are granted LTR on the 5-year transitional route that they would be eligible to apply for ILR before the end of their period of limited leave if they were able to pass the KoLL test before that point. Of the 20 decision letters reviewed by inspectors where the applicant had been granted LTR on the 5-year transitional route, just 2 (10%) said that the applicant had the opportunity to apply for ILR before the end of their period of limited leave.

Reconsideration requests

9.12 Decisions to refuse ILR and grant a period of LTR do not attract a right of appeal (ROA), though these decisions are eligible for a 'reconsideration',[93] defined by the Home Office in its guidance as "a review by the Home Office of a decision made in the UK on an application for one of the following: further, limited or indefinite leave to remain; transfer of conditions; no time limit".[94]

9.13 The guidance states that the applicant should make their request "within 14 calendar days of receiving the decision, if it relates to a decision made on or after 6 April 2015". The caseworker "must reject the request if it was made out of time, unless there are exceptional reasons why it could not have been made in time".[95]

9.14 The request should:

> "Explain why the decision is incorrect or inconsistent with existing policy, stating how it did one of the following:
>
> - failed to take account of, or misinterpreted, relevant evidence submitted to the Home Office before the date of the decision
> - was not in line with the relevant law, policy or guidance."[96] [97]

9.15 Several stakeholders were unaware of the reconsideration process as an option. They said that, in cases where ILR was refused and LTR granted, they had resorted to challenging the decisions via a judicial review (JR), which "makes it quite difficult to challenge, given the costs of a JR".[98]

9.16 Inspectors asked staff at interviews where an applicant could find information relating to the reconsiderations process and were told the information would be available on the GOV.UK website. As at February 2022, it is contained within the pages relating to 'indefinite leave to remain if you have family in the UK'.

9.17 Data is not routinely used by the Home Office to assess how many reconsideration requests were submitted by applicants, to drive improvements within ILR Operations.[99] The Post-Decision Team (PDT) provided information that illustrated that, since the beginning of 2019, they had received 143 requests for decisions on 'settlement marriage' (SET(M)) applications to be reconsidered. Since 2019, 2,970 decisions have been made to refuse ILR but

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93 The Home Office, in its factual accuracy response, stated: "The Department identified that the reconsiderations policy has been applied to cases where the settlement application has been varied and the person has been granted permission to stay. It was not the policy intention that the reconsiderations policy should apply to this cohort. However, we accept that the guidance as drafted causes confusion both for applicants and caseworkers and that this has led to a small number of reconsiderations taking place. We will review and update the guidance to make the position clear on what redress is available to this cohort. 71 reconsiderations have been carried out during the inspection period as a result of how the 2018 guidance was interpreted, with a further 50 reconsiderations as a result of a PAP/JR (the initial figure of 143 reconsiderations which was provided in February 2022 was inaccurate)."

94 The Home Office updated the published guidance, 'Reconsiderations' on 10 June 2022: https://www.gov.uk/government/publications/reconsiderations

95 See footnote 93.

96 The Home Office updated the published guidance, 'Reconsiderations' on 10 June 2022: https://www.gov.uk/government/publications/reconsiderations

97 See footnote 93.

98 See footnote 93.

99 The Home Office, in its factual accuracy response, stated: "We have also reviewed the data we provided... For completeness a summary of this data is attached, which shows:

- The initial data provided showed 143 reconsiderations had taken place on Settlement applications during the inspection period;
- On review of this data, the number has reduced to 121. This was due to the fact that a written request for reconsideration was submitted at the same time as they instigated a challenge via PAP/JR so effectively they were double counted.
- Of this, 50 were as the result of a Pre-Action Protocol or Judicial Review, and 71 were standard reconsideration requests.
- Of the 71 standard reconsideration requests, 46 (64.79%) had the decision maintained, and 18 (25.35%) were granted ILR. There were 7 (9.86%) other cases (a mixture of LTR grants and withdrawals/rejections)."

grant another form of limited leave to remain, therefore not attracting a right of appeal (ROA). There were 140 requests for reconsiderations on decisions made in the same period, which makes 4.71% of all refusals with no ROA.

9.18 Of the total reconsideration requests, 31.5% (45) had been granted ILR, following reconsideration, as demonstrated in Figure 15.[100]

Figure 15: Breakdown of decisions made on reconsideration requests submitted since January 2019

Final outcome	%	Number
Decision maintained	47.6%	68
Grant ILR	31.5%	45
Request for reconsideration rejected, as failed to meet sift criteria	12.6%	18
Granted some form of LTR	4.9%	7
Decision still pending	2.1%	3
Request withdrawn by applicant	1.4%	2

9.19 Of the 143 requests for reconsideration, 91 had an original decision to refuse ILR and grant Family and Private life LTR, therefore moving the applicant onto the 10-year route. In 27.5% of these cases, the decision was overturned, and the applicant was granted ILR.[101]

100 See footnote 99.
101 See footnote 99.

10. Inspection findings: indefinite leave to remain Operations quality assurance and learning

10.1 The inspection team requested details of all mechanisms in place to assure casework and decisions on family visa applications. In its response, the Home Office stated: "Over the last 2 years, quality assurance processes across the Marriage and Family command have been streamlined to ensure we have the required tools and strategies in place to ensure quality decision making."

10.2 It described a 2-stage process: "routine sampling" and "referral mechanisms for complex considerations".

Routine sampling

10.3 Quality assurance in ILR Operations is undertaken by senior caseworkers (SCWs). For routine sampling, the Home Office use a quality assurance tool named 'CRAFT', which is described as a "bespoke tool", and was developed with support from the Home Office's Central Operations Assurance Team (COAT), to generate quality assurance scores.

10.4 Scores on CRAFT are determined by the answers of predefined questions with set outcomes: 'no errors', 'minor errors', 'significant errors' and 'fail'. These scores are split into 2 themes: 'operating mandate' (OM) and 'casework'.

10.5 OM checks are minimum mandatory identity and security checks which should be carried out on all applicants. The given identity and aliases (declared or revealed from the biometric checks) are checked against relevant Home Office systems and police criminality databases. Casework scores relate to the quality of decision making and decision letters.

10.6 The ICIBI's 2015 'Inspection of Settlement Casework' found that "the UKVI [UK Visas and Immigration] Operating Mandate, introduced in November 2014, was working effectively. Mandatory checks of identity and criminal history were being completed".[102] This current inspection found that OM checks were still being carried out effectively in family settlement casework.

10.7 An automated, standardised report is generated based on the outcomes of the CRAFT scores, which is emailed to the relevant decision maker (DM) by the SCW, as feedback.

10.8 Of the scores generated:

1. OM can achieve either:
    - DQ1 (pass)
    - DQ5 (fail)
2. Casework can achieve:

102 https://www.gov.uk/government/publications/inspection-report-on-settlement-casework-november-2015

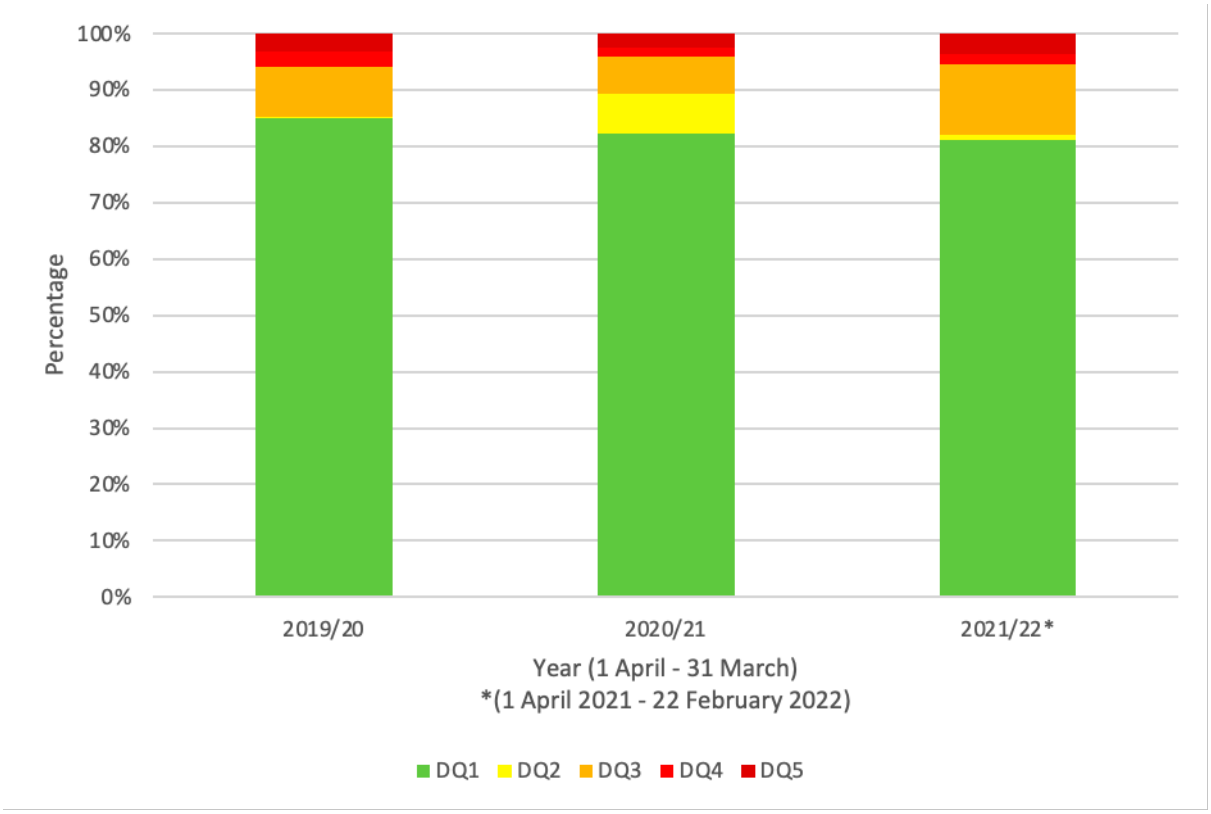
- DQ1 (pass – can contain a low number of minor errors)
- DQ2 (pass – with a number of minor errors)
- DQ3 (provisional pass – contains a significant error but the decision is correct)
- DQ4 (fail mark given in a section but the decision is correct)
- DQ5 (fail – decision is incorrect)

10.9 Routine sampling is set at 2% of output across Marriage and Family. Over the past 3 years, ILR Operations has exceeded this target by at least 0.42%. Where a case is scored at DQ5, another case from the same DM is immediately sampled.

10.10 Where a DM is placed on a performance plan to address issues with the quality of their decision making, this is usually set for 6 weeks. A SCW checks 100% of their decisions for 2 weeks. If, after the 2 weeks, the SCW is satisfied that their quality has improved, they reduce to checking 50% of their decisions for a further 2 weeks. After this, the SCW continues to check 10% of their decisions for 2 more weeks. New members of staff have 100% of their decisions reviewed by a SCW until they are 'signed off' on each finance category and have demonstrated they are capable of effectively assessing these cases.

10.11 The Home Office provided inspectors with 'dashboards' containing the results from the CRAFT quality assurance tool, from 2019 to 2022. ILR Operations achieve a high percentage of DQ1 scores in casework, with more than 80% of cases sampled over the past 3 years scoring DQ1, as highlighted in Figure 16, which shows the DQ scores as a proportion of the total 'settlement marriage' (SET(M)) cases sampled each year.

Figure 16: Decision quality (DQ) scores between 1 April 2019 and 22 February 2022



10.12 Accompanying the scores for 2021/22, the Home Office provided a report with DQ scores broken down by month, which illustrated a reduction in quality throughout April, May, November and December 2021. The Home Office attributed this to 2 intakes of new staff in April and October.

10.13 COAT produced a report which provides an overall assessment of the assurance mechanisms carried out by Marriage and Family, between April 2020 to March 2021, and how it measures against the requirements of the UKVI Operational Assurance Strategy published in October 2017. The report aims to provide "assurances to UKVI Directors and other stakeholders, that UKVI's internal processes and governance enable the directorate to identify gaps and weaknesses and to prioritise improvement activity".

10.14 It found that although the 2% target was achieved by ILR Operations, the sample rate fluctuated throughout the year. A suggested area for focus was that "to make sure that sampling is reflective of output and quality throughout the year a consistent level of sampling should take place over the next 12 months".

Referral mechanisms for complex considerations

10.15 The Home Office provided inspectors with a list of scenarios in which a DM must refer a decision to a SCW for "assistance and authorisation of discretion", because they were deemed to be complex cases. A decision should not be served to an applicant on these cases without a SCW having reviewed it. The list included all applications where the decision was not anticipated to be a grant and required an Immigration Health Surcharge (IHS) write out, those including knowledge of language and life in the UK (KoLL) waivers, or where a referral to another agency or internal unit was needed due to complexity or safeguarding concerns.

10.16 To refer a case for SCW approval or advice, DMs are required to complete an 'SCW referral' form and email it to their manager. The form prompts DMs to set out the pertinent details of the case, particular points they are querying or reason for referral, and they are also encouraged to provide a suggested solution or outcome, to improve their own learning. The referral is usually resolved between the DM and SCW, but it can also be referred to higher managers if required by the SCW. The Home Office told inspectors that volumes of referrals to SCWs were "not generally recorded", although referrals would be discussed at weekly management meetings, to identify common themes and trends.

10.17 In the ILR applications examined, inspectors found examples of decisions which should have been referred to a SCW for advice, but this action had not been taken. Further, even where a referral had taken place, the advice was not consistently recorded on Atlas. Inspectors noted that, in the absence of any formal record of SCW referrals, on Atlas or otherwise, whilst an audit trail existed on email, there was no central mailbox, so records ceased when staff left their roles. However, in November 2021, the ILR Operations team created a centralised mailbox for referrals and in January 2022, staff told inspectors about a pilot to record queries relating to complex cases on a spreadsheet, which would then automatically send an email to the centralised inbox to which all managers had access.

10.18 Managers hoped that this would improve consistency, "as everyone can see your answer, and if you are unsure how to answer a particular query, you can see previous responses as a benchmark".

10.19 In one ILR application reviewed by inspectors, the applicant was on the 10-year route to settlement at the time of submitting an application for ILR, so had not completed the requisite time to be eligible for settlement at that point. A case of this kind would fall under the "IHS write outs/grants on 10-year route" category, as described in the Home Office's list of cases which require a SCW referral. However, there was no record on Atlas to suggest that a referral had been made, or that authorisation had been sought from the SCW to complete the IHS write out.

10.20 Inspectors raised this example with the Home Office, and in response it stated: "This case was referred to a SCW but unfortunately, we do not hold a copy of the advice received. This may have been received via skype or call."

10.21 In a similar case, where the applicant had not completed sufficient time to qualify for settlement on the 5-year route, no advice or authorisation had been sought by a SCW before sending the decision, despite applications of this kind requiring a SCW referral. The Home Office commented:

> "Whilst all cases which do not result in a grant are now referred to SCW's [sic], at the time of consideration this was not current practice. We have since adopted a more customer centric approach and we always look if a variation to FLRM offers a faster route to settlement. Under this approach it would be varied to FLRM to see if they could grant Further Leave under the 5-year route. However, as stated at the time this decision was in line with our practice."

10.22 Although the Home Office stated that this "was not current practice" at the time, it demonstrates the importance of the application being reviewed by an SCW where it is complex, before a decision is made, to ensure all options are fully explored for the applicant and they do not have an unnecessarily long route to settlement.

10.23 Inspectors asked whether ILR Operations would refer complex cases to the Home Office's Chief Caseworker Unit (CCU)[103] and were told that they had "a little interaction with them" and may refer cases on an ad hoc basis. However, a senior manager reflected that, based on these limited interactions, "they are good, as they are not afraid to go away from the policy if the customer would benefit", concluding they "need to use them a bit more".

Continuous improvement

10.24 With the aim of improving operational practice and decision making, recommendation 16 of the 'Windrush Lessons Learned Review'[104] states that:

> "The Home Office should establish a central repository for collating, sharing and overseeing responses and activity resulting from external and internal reports and recommendations, and adverse case decisions. This will make sure lessons and improvements are disseminated across the organisation and inform policy-making and operational practice."[105]

103 The Home Office outlines the purpose of the CCU in the 'Comprehensive Improvement Plan': "The CCU promotes discretion and a human focus in case-working, considering the person not just the application." It explains that where a UKVI DM experiences "discomfort in making a decision, they can consult the CCU to consider the options available and, where possible, the unit will take a holistic approach to finding the best solution for the customer".
104 https://www.gov.uk/government/publications/windrush-lessons-learned-review
105 https://www.gov.uk/government/publications/windrush-lessons-learned-review

10.25 Applications for ILR made under Appendix FM which are refused outright attract a right of appeal (ROA). In 2020 and 2021, less than 1% (128) of applications were refused. Roughly 50% of refusals resulted in an appeal.[106]

10.26 ICIBI's 'Inspection of the Home Office Presenting Officer function' examined learnings which could be taken from appeals outcomes. A recommendation from this was to "produce an internal communications plan for Appeals Operations that … reinforces the importance of effective feedback to decision-making areas and policy teams".[107] In response to a request for evidence of feedback mechanisms with Appeals Operations, the Home Office said:

> "The information [on appeals] is sent each month to [ILR Operations] and is analysed and fed back to caseworkers if it is identified improvements can be made. The overall trends for Marriage and Family are also shared at the Assurance Board if any trends are identified across the wider team."

10.27 ILR Operations managers conducted a 'deep dive analysis' of the appeals data in December 2021, and concluded:

- "The submission of fresh evidence at the First Tier Tribunal resulted in 43% of decisions being overturned at appeal. It is interesting to note that in the majority of cases, the fresh evidence determines the difference between a grant of indefinite leave to remain for the customer and further leave to remain on the grounds that an outright refusal is disproportionate.
- It appears from our analysis, that Immigration Judges' interpretation of the Immigration Rules at Appendix FM paragraphs Gen 3.2 (unjustifiably harsh consequences) and EX.1 (unreasonable to expect family life to continue outside the UK) is far more literal than the casework and policy guidance suggests; that the threshold for such grants is much higher.
- Having reviewed the appeal determinations for the data set, we have only been able to identify 12 cases which we can fairly apportion the reason for the overturn to caseworker error – a rate of 0.05% of all decisions made in the period."

10.28 Inspectors requested information on the volume and nature of enquiries from MPs and on complaints received directly by the Home Office from applicants who had submitted an ILR application.

10.29 In 2020, 274 enquiries were received from MPs and 492 were received in 2021. The 2 main reasons for the enquiries related to timeliness of decisions. They were either requesting an update on applications that were out of service standard or requesting that an application is expedited. These 2 types of enquiries accounted for approximately 48% of enquiries in both 2020 and 2021. The other 52% of queries related to 17 other types of queries in 2020 and 13 in 2021. Figure 18 illustrates the number of complaints received in 2020 and 2021, broken down by refunds and delays.

106 In 2020 there were 44 appeal determinations and in 2021 there were 21.
107 https://www.gov.uk/government/publications/an-inspection-of-the-home-office-presenting-officer-function

Figure 18: Number of complaints received in 2020 and 2021		
	2020	**2021**
Refund – application fees[108]	29	37
Delays	49	64
All other complaints	230	141
Total	308	242

10.30 Processing times and service standard delays were also the subject of 5 out of 15 Parliamentary questions relating to SET(M) applications between January 2019 and October 2021.

10.31 All complaints and MP enquiries are received through the Sheffield Correspondence Team (SCT), who log them on a tracker and determine who or how the complaints or enquiries should be responded to. SCT will deal with all non-casework correspondence on behalf of Work, Study, Marriage and Family, but ILR Operations, for example, may be requested to work on the correspondence only if a specific casework action is required. Otherwise, the SCT retains ownership of the correspondence throughout, up to, and including sending the final response.

10.32 An SCT manager told inspectors that, if trends are identified, the single point of contact for the relevant ILR Operations team is contacted, but this is done on an "ad hoc basis as issues start to come up". The SCT is not part of the Marriage and Family senior leadership team and so do not attend senior leadership meetings, but do receive the minutes.

10.33 Whilst inspectors saw evidence of informal and ad hoc feedback to DMs from complaints or enquiries, at the time of this inspection there was no comprehensive or robust central repository for collating, sharing or overseeing feedback, in order to drive continuous improvements.

108 The difference of the cost between the SET(M) fee and FLR(M) fee is refunded to applicants if ILR is refused and FLR is granted.

11. Inspection findings: impact of the 10-year route

11.1 The 10-year route to settlement under Appendix FM was introduced in July 2012 for those who are unable to meet all the requirements of the rules. An applicant could be placed on this route from their initial application for entry clearance (EC) or leave to remain (LTR), or they could be moved onto it at a later stage, when they no longer meet all of the requirements for the 5-year route.

11.2 In December 2021, the Home Office published guidance on a 'Concession to the family Immigration Rules for granting longer periods of leave and early indefinite leave to remain'. It states: "The 10-year route generally serves as an incentive to encourage compliance with the core requirements of the Immigration Rules and encourage integration into society."[109] This concession relates to the private life Rules, but it can be used to understand the general principles behind a 10-year route.

11.3 On the 10-year route, an applicant must reapply every 30 months and may only apply for indefinite leave to remain (ILR) once they have completed 120 months of continuous lawful residence.

11.4 Joint Council for the Welfare of Immigrants (JCWI) published a report, 'We are here: routes to regularisation for the UK's undocumented population' in April 2021, which examined the impact of having "undocumented status" and what might lead someone to this. The report highlighted that a migrant could lose immigration status "for a variety of reasons outside their control, including relationship breakdown, domestic violence, poor legal advice, their or a relative's physical or mental health crisis, inability to pay extremely high fees, or a simple mistake" and argued that the cost of the application fees required on a 10-year route to settlement places people at risk of becoming undocumented, if they experience crisis at the time the application fee is due.[110]

11.5 There is a presumption in law that an applicant is granted LTR with no recourse to public funds (NRPF). Section 117B(3) of the 2002 Act, inserted by section 19 of the Immigration Act 2014, states:

> "It is in the public interest, and in particular in the interests of the economic wellbeing of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—
>
> a) are not a burden on taxpayers, and
>
> b) are better able to integrate into society."[111]

11.6 Until recently, if someone applied to have their NRPF condition lifted, they would be automatically moved from a 5-year route to the 10-year route.

109 As at June 2022, this guidance was no longer available online.
110 https://www.jcwi.org.uk/Handlers/Download.ashx?IDMF=5467543a-6e30-4e28-a39f-db48ffad6d3a
111 https://www.legislation.gov.uk/ukpga/2014/22/section/19/enacted

11.7 However, in response to a Parliamentary question, Parliamentary Under Secretary of State for Safe and Legal Migration, Kevin Foster MP, stated that this process had been suspended:

> "We are currently reviewing the policy whereby an applicant on the family route who submits a change of conditions application and receives recourse to public funds is then required to complete 10 years on the family route in order to qualify for settlement.
>
> Pending this review we have currently suspended the process of automatically requiring an applicant to complete 10 years on the family route following the lifting of 'no recourse to public funds' conditions, and will instead review their situation in line with the Immigration Rules at their next application for leave to remain."[112]

11.8 ICIBI's 2019 'Inspection of the policies and practices of the Home Office's Borders, Immigration and Citizenship Systems relating to charging and fees' made a recommendation to:

> "Review the routes to settlement, including assessing negative effects on individuals and families or requiring repeated applications for leave prior to considering settlement, the option of tapering the fee for second and subsequent applications for leave where the applicant's circumstances have not changed, and setting shorter timescales for decisions to grant or refuse applications."[113]

11.9 In response, the Home Office committed to:

- "Look at fee tapering for repeat applications in the context of the spending review, although recognise the complexities in this approach for setting and administering fees.
- Reflect on comments about different routes to settlement.
- Do more to shorten timescales. Partially through recruiting staff to increase decision-making capacity. The application process is now online and we hope to be digitising documents which should lead to further improvements in the future."[114]

11.10 The inspection team asked for an update and the Home Office stated:

> "Work to look at fee tapering has not been progressed given the financial backdrop and short-term Spending Reviews. Fee tapering would be operationally complex to implement and any further assessment of the feasibility of fee tapering will be linked to the Home Office's spending review 2021 outcome. Fee increases across some routes would most likely be required to compensate for loss of income in tapered fees."

11.11 It also stated that work to look at the various routes to and rules on settlement "is not scheduled to complete until autumn/winter 2022".

Impact on children and young people

11.12 The Home Office is obliged to ensure the best interests of the child are a primary consideration in decisions involving children. Section 55 of the Borders, Citizenship and Immigration Act 2009 states:

112 https://questions-statements.parliament.uk/written-questions/detail/2022-02-07/119396
113 https://www.gov.uk/government/publications/an-inspection-of-the-policies-and-practices-of-the-home-offices-borders-immigration-and-citizenship-systems-relating-to-charging-and-fees
114 https://www.gov.uk/government/publications/response-to-an-inspection-of-home-office-bics-policies-and-practices-relating-to-charging-and-fees

"The Secretary of State must make arrangements for ensuring that—

(a) the functions mentioned in subsection (2) are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom."[115]

11.13 And Article 3 of the UN Convention on the Rights of the Child, states:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."[116]

11.14 In response to this inspection's call for evidence, stakeholders told inspectors of the challenges people face remaining on the 10-year route to settlement and the ability, particularly for those within low-income families, to participate fully in society. One stakeholder wrote of the number of components that, together, cause harm or a high risk of harm to children, young people, and families on that route, which include:

- "the complexity and opacity of the application process, particularly for applicants without access to legal advice
- the length of time spent in 'limbo' waiting for decisions on FLR applications
- the number of applications required during the route
- the fees for those applications
- the presumption for an NRPF[117] condition to be imposed"

11.15 Stakeholders raised concerns about the ability for families to save for the fees required to make repeat applications, particularly without access to welfare benefits and local authority housing. Families on a low income are particularly at heightened risk of destitution, indebtedness and exploitation. A stakeholder that provides immigration advice and support to migrant children wrote:

"The 10-year route has a significant emotional, educational and financial impact on children. It makes them feel insecure and marks them out it as being different from their peers. It places obstacles in the way of their development through education, employment, health and financial security. Rather than promoting their economic independence, integration within their communities or their best interests, it traps them in poverty throughout their childhoods and into adulthood."

11.16 Of the 83 ILR applications and associated Atlas records examined by inspectors, 58% (48) of applicants had at least one British child. This increased to 90% of those who were granted LTR on the 10-year route.

Data

11.17 As the 10-year route was introduced in July 2012, official data on the number of people that have now completed the route will not be available until later in 2022.

11.18 In response to the ICIBI's call for evidence, stakeholders raised concerns about the volume of people who 'dropped off' the route to settlement, as they are unable to afford to pay

115 https://www.legislation.gov.uk/ukpga/2009/11/section/55
116 https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_united_nations_convention_on_the_rights_of_the_child.pdf
117 https://www.gov.uk/government/publications/public-funds

application fees on a regular basis. They are particularly concerned that the Home Office is not aware of the volume of those who have become 'undocumented' for this reason.

11.19 The Home Office publishes annual migration statistics, which it uses to examine trends in settlement, and shows the number of people that have 'expired' leave. In May 2021, the Home Office published its 'A Migrant journey: 2020 report',[118] which explores changes in non-European Economic Area migrants' visas and leave status as they journey through the UK's immigration system.

11.20 It stated:

> "The proportion of people granted a family visa in 2015 who had been granted settlement five years later (32%) was a [sic] much lower than the 2014 cohort (46%). This continues a general downward trend starting from a peak of 82% in 2010, and was less than half the rate of the 2012 cohort (69%). This change can to some degree be accounted for by changes in July 2012 to the Immigration Rules for family visas, which changed the eligibility period for settlement from two years to five years."[119]

11.21 Although the data contained in this report is broken down by age and sex, it does not include data for each protected characteristic. The statistics are also not reflective of applications made solely under Appendix FM, as they include those which were initially granted family reunion visas.[120] Thus, these statistics cannot be used as a reliable indicator of those who 'dropped off' this route.

Equality issues

11.22 Stakeholders told inspectors that there is a positive correlation between those who hold certain protected characteristics and those who are placed on a 10-year route. In a written submission to the inspection team, an organisation providing legal representation to migrant children observed:

> "Most of those whose circumstances mean that they would be placed on the 10-year route, or those who are already on it, have had very poor early life experiences or are otherwise significantly disadvantaged."

11.23 Inspectors asked the Home Office for copies of all existing Equality Impact Assessments (EIA)[121] relating to ILR policy and casework in order to establish how the Home Office is assuring itself of its compliance with Public Sector Equality Duty.[122] The Home Office provided a copy of the Family Migration Policy Equality Statement,[123] dated 13 June 2012, completed for the 2012 Immigration Rules (the Rules) change which created the 10-year route under Appendix FM. The document states that the review date is "ongoing", however this document has not been updated since publication. The body of evidence and stakeholder consultation used to inform the statement dates back to 2011. Therefore, it fails to capture new research or data that has emerged which may have an effect on the equality impacts of the policy today.

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118 https://www.gov.uk/government/statistics/migrant-journey-2020-report

119 https://www.gov.uk/government/statistics/migrant-journey-2020-report

120 Family reunion visas are for partners or children of somebody in the UK with refugee status. There is no fee for an application for ILR for somebody who was initially granted a family reunion visa.

121 An EIA is an evidence-based approach designed to help organisations ensure that their policies, practices, events and decision-making processes are fair and do not present barriers to participation or disadvantage any protected groups from participation. This covers both strategic and operational activities.

122 A legal duty under the Equality Act 2010 it is a way of making sure public bodies, including the Civil Service, take account of equality in their day-to-day work.

123 https://www.gov.uk/government/publications/family-migration-impact-assessment

11.24 Staff within the Family Policy team expect that the use of Atlas will allow for the collection of more relevant data, noting: "When we move cases to Atlas we need to structure the process in the right way so we have a full data set for analysis … Where we see trends we need to understand what they are." However, inspectors did not see evidence of this.

Family simplification Equality Impact Assessment

11.25 Inspectors reviewed the family simplification EIA from November 2020. This document reflects the main equality considerations for the Family Immigration Rules, in particular the changes made when the Family Immigration Rules were amended in July of 2012. However, the body of evidence used in its consideration is from the 2012 EIA, which is mainly from 2011 and 2012.

11.26 Within the EIA is an acknowledgement that women are more likely to be affected by the family rules:

> "Data suggests that women in general have lower incomes than men so may be more affected by having to meet minimum income and fee requirements. This may result in some indirect discrimination."

11.27 However, it concludes that:

> "This was considered when the MIR (minimum income requirement) was introduced in 2012 and formed part of the assessment as to the appropriate level to set the income. As the Rules are designed to be applied equally to all applicants, it does not provide a basis on which to provide preferential treatment (i.e. by removing the MIR for women) over other applicants and sponsors who must meet the requirements of the rules."

11.28 Staff welcome the simplification of the Rules and senior managers in ILR Operations told inspectors that they are working with policy teams on the changes and expect there will be cultural change in the way that caseworkers will need to assess cases.

Policy concession to the 10-year route

11.29 On 26 October 2021, as part of the work to simplify the Rules, the Home Office announced a policy concession in relation to the 10-year route to settlement. This concession means that young adults (aged between 18 or above and under 25 years, as in the private life rules) who came to the UK as children and have lived here for at least half their life should qualify for ILR after having completed 5 years of leave to remain, rather than 10 years. Although this concession does not affect applicants going through the ILR 'settlement marriage' (SET(M)) process, it demonstrates an acknowledgement of the need to reform the 10-year process. Within the guidance it states:

> "However, for some cases the public interest factors which underpin the 10-year settlement policy – namely, the need to serve a longer probationary period before qualifying for settlement, and the principle of encouraging lawful compliance – may be less relevant."

11.30 Furthermore, the EIA for this concession cites the Windrush Lessons Learned Review report and the Home Office's intention to "make the Home Office a more compassionate, fair, people-oriented organisation. This concession will enable us to implement the changes immediately for the benefit of this cohort and to prevent any prejudice to them while the Rules are changed."

Annex A – Recommendations made by the Law Commission in their 'Simplification of the Immigration Rules: Report'

Recommendation 1

We recommend that the Immigration Rules be overhauled.

Recommendation 2

We recommend that the following principles should underpin the redrafting of the Immigration Rules:

(1) suitability for the non-expert user;

(2) comprehensiveness;

(3) accuracy;

(4) clarity and accessibility;

(5) consistency;

(6) durability (a resilient structure that accommodates amendments); and

(7) capacity for presentation in a digital form.

Recommendation 3

We recommend that the Secretary of State considers the introduction of a less prescriptive approach to evidential requirements, in the form of non-exhaustive lists, in areas of the Immigration Rules which he or she considers appropriate.

Recommendation 4

We recommend that in those instances where prescription is reduced, lists of evidential requirements should specify evidence which will be accepted, together with a category or categories of less specifically defined evidence which the decision-maker would consider with a view to deciding whether the underlying requirement of the Immigration Rules is satisfied.

Recommendation 5

We recommend the division of the subject matter of the Immigration Rules in accordance with the list of subject-matter set out in appendix 4 to this report.

Recommendation 6

We recommend that the Home Office should conduct an audit of provisions in the Immigration Rules that cover similar subject-matter with a view to identifying inconsistencies of wording and deciding whether any difference of effect is intended.

Recommendation 7

We recommend that a statement of a single set of Immigration Rules and subsequent changes to them should be laid in Parliament and made available on paper and online.

Recommendation 8

We recommend that, pending the identification of technology that directs an applicant to Rules relevant to their application, the Rules should be reworked editorially by a team of experienced officials and checked to ensure legal and policy compliance by a suitably qualified person conversant with the subject-matter so as to produce booklets for each category of application which are also made available on paper and online.

Recommendation 9

We recommend that any difference in wording and effect between Immigration Rules covering the same subject-matter should be highlighted in guidance and the reason for it explained.

Recommendation 10

We recommend that:

(1) definitions should be grouped into a definitions section, either in a single set of Immigration Rules or in booklets, in which defined terms are presented in alphabetical order;

(2) if the terms are defined in a booklet, only terms which are used in that booklet should be included;

(3) terms defined in the definitions provision should be identified as such by a symbol, such as #, when they appear in the text of the Rules; and

(4) in the online version of the Rules, hyperlinks to the definitions section or, technology permitting, hover boxes should be provided where a defined term is used.

Recommendation 11

We recommend that the following principles should be applied to titles and subheadings in the Immigration Rules:

(1) there should be one title, not a title and a subtitle;

(2) the titles given in the Index and the Rules should be consistent;

(3) titles and subheadings should give as full an explanation of the contents as possible, consistently with keeping them reasonably short;

(4) titles and subheadings should not run into a second line unless necessary in the interests of clarity; and

(5) titles and subheadings should avoid initials and acronyms.

Recommendation 12

We recommend that subheadings should be used in the Immigration Rules only where necessary in the interests of clarity and understanding.

Recommendation 13

We recommend that a table of contents should be placed at the beginning of each Part of the Immigration Rules.

Recommendation 14

We recommend the following numbering system for the Immigration Rules:

(1) paragraphs should be numbered in a numerical sequence;

(2) the numbering should re-start in each Part;

(3) it should be possible to identify from the numbering system the Part within which a paragraph falls, the use of multilevel numbering commencing with the Part number;

(4) the numbering system should descend to three levels (1.1.1 and so on) with the middle number identifying a section within a Part; and

(5) letters should be used for sub-paragraphs and lower case Roman numerals for sub-subparagraphs.

Recommendation 15

We recommend that:

(1) Appendices to the Immigration Rules should be numbered in a numerical sequence;

(2) in the online version of the Rules, references to Appendices should be in the form of hyperlinks; and

(3) to the extent that booklets are produced, these should also use hyperlinks to refer to Appendices.

Recommendation 16

We recommend that text inserted into the Immigration Rules should be numbered in accordance with the following system:

(1) new sections or paragraphs inserted at the beginning of a Part or section should have a number preceded by a letter, starting with "A" (A1, B1, C1 and so on); a section or paragraph inserted before "A1" should be "ZA1"; for example, 1.A1.1 or 1.1.A1;

(2) new lettered sub-paragraphs, inserted before a sub-paragraph (a), should be (za), (zb) and so on, and paragraphs inserted before (za) should be (zza), (zzb) and so on;

(3) where text is added to the end of existing text at the same level, the numbering should continue in sequence;

(4) new whole sections or paragraphs inserted between existing sections or paragraphs should be numbered as follows:

(a) new numbering inserted between 1 and 2 should be 1A, 1B, 1C and so on; for example, 1.1A.1 or 1.1.1A;

(b) new numbering inserted between 1A and 1B should be 1AA, 1AB, 1AC and so on;

(c) new numbering inserted between 1 and 1A should be 1ZA, 1ZB, 1ZC and so on (and not 1AA and so on); and

(d) new provisions inserted between 1A and 1AA should be 1AZA, 1AZB, 1AZC and so on;

(5) a lower level identifier should not be added unless necessary; and

(6) after Z or z, the sequence Z1, Z2, Z3 and so on or z1, z2, z3 and so on should be used.

Recommendation 17

We recommend that definitions should not be used in the Immigration Rules as a vehicle for importing requirements.

Recommendation 18

We recommend that, where possible, paragraphs of the Immigration Rules:

(1) should be self-standing, avoiding cross-reference to other paragraphs unless strictly necessary; and

(2) should state directly what they intend to achieve.

Recommendation 19

We recommend that appropriate and consistent signposting to other portions of the Rules and relevant extrinsic material should be used in the Immigration Rules.

Recommendation 20

We recommend that repetition within portions of the Immigration Rules should be adopted where desirable in the interests of clarity.

Recommendation 21

We recommend the adoption of the drafting guide set out in appendix 6 to this report.

Recommendation 22

We recommend that:

(1) the Home Office should convene at regular intervals a committee to review the drafting of the Immigration Rules in line with the principles that we recommend in this Report;

(2) the committee should review the interaction between the Rules and guidance;

(3) the committee should be advisory only; and

(4) the terms of reference of the committee should exclude consideration or review of immigration policy.

Recommendation 23

We recommend that the Home Office should design a more structured process for receiving and responding to user feedback to speed up rectification of problems identified in the Immigration Rules, make responses accessible to other users, and create an internal mechanism to relay learning to teams.

Recommendation 24

We recommend that:

(1) where appropriate, statements of changes to Immigration Rules should set out the affected portion of the text in its amended form in the style of an informal Keeling schedule;

(2) an alert should appear in the online version of the current Rules to draw attention to pending changes, with a link to the Keeling schedule and an indication of the date when the change would come into effect; and

(3) explanatory memoranda should contain sufficient detail to convey the intended effect of a proposed amendment to the Rules in language accessible to a non-expert user.

Recommendation 25

We recommend that the Home Office should follow a policy that there should be, at most, two major changes to the Immigration Rules per year, unless there is an urgent need for additional change.

Recommendation 26

We recommend that:

(1) a statement of the date from which a Rule has effect should be provided in the online version of the Immigration Rules, explaining whether the commencement date relates to decisions or applications or applies any alternative formula; and

(2) the indication should be provided in such a way that it appears on the printed copy if a Rule is downloaded and printed.

Recommendation 27

We recommend that improvements to the system for archiving previous versions of the Immigration Rules should be made, with consideration given to adopting either an online archive search facility which allows a search of versions of a Rule by keying in a date, or the presentation of the Rules in an annotated form which provides links to previous versions of the Rules.

Recommendation 28

As an interim solution, as a way of improving the existing archive, we recommend that a link to the statement of changes which introduced the version of the Immigration Rules should be included in each archived version of the Rules. The link should refer to the relevant paragraph numbers and categories of leave affected by the changes.

Recommendation 29

We recommend that Appendix F (Archived Immigration Rules) and paragraphs 276DI to 276AI in Part 7 (Other categories) should be omitted from the redrafted Immigration Rules.

Recommendation 30

We recommend that an exercise of simplification of guidance should be undertaken in tandem with the simplification of the Immigration Rules.

Recommendation 31

We recommend that the aim of the exercise to simplify guidance should be to rationalise the number of guidance documents with a view to reducing the guidance on any topic into a single document incorporating guidance both for caseworkers and applicants.

Recommendation 32

We recommend that an index should be created listing the guidance documents relevant for each immigration category, and giving each document a clear and informative title. This index should be located in one place and clearly conspicuous to a user of the Immigration Rules. It should be accompanied by an explanation for non-expert users as to the difference in the status of the Rules and guidance.

Recommendation 33

We recommend that guidance should not repeat the Immigration Rules, but instead serve to illustrate how the Rules will be applied. Consideration should be given to the use of illustrative worked examples and flow charts to aid understanding.

Recommendation 34

We recommend that where a new version of a guidance document is published, changes from previous versions of guidance should be highlighted to make it easier to see what has changed.

Recommendation 35

We recommend that an archive of guidance should be created with links to previous versions of the guidance and an indication of the period during which a particular guidance document operated.

Recommendation 36

We recommend that a system of coordinated oversight of the content of guidance should be introduced.

Recommendation 37

We recommend that consideration should be given to the adoption of a practice of limiting the frequency of publication of guidance so as to coincide with the publication of statements of changes to the Immigration Rules.

Recommendation 38

We recommend that the Home Office should give consideration to the following steps with a view to improving the accessibility of application forms:

(1) a review of the titles of application forms with a view to making them clear and informative;

(2) clear and non-technical guidance on selecting and completing application forms, which is distinguished from policy guidance;

(3) links from the Immigration Rules and guidance to the appropriate application form;

(4) a review of the coverage of application forms, with a view to providing an appropriate form for any application;

(5) a timetable for the updating of applications forms, to coincide with major Rule changes;

(6) an archive of superseded application forms; and

(7) user testing of application forms and of the interaction between forms, Rules and guidance.

Recommendation 39

We recommend that the Home Office should work towards producing a single set of Immigration Rules that function as effectively online as booklets through the use of hyperlinks. To the extent that booklets are produced, they should also include hyperlinks as an aid to navigation.

Recommendation 40

We recommend the use of hyperlinks to link guidance to the Immigration Rules in the online presentation of the Rules. Where Rules are produced in booklet form, these should provide links to the guidance relevant to the immigration category dealt with by the booklet.

Recommendation 41

We recommend that provision should be made for a facility to view an application form prior to completion, either through provision for a printable version of the form or a facility to navigate through the form online in a version which the system would not allow to be submitted. The wording on this version of the form should indicate where the need to answer a question depends on the terms of a previous answer.

Annex B – Role and remit of the Independent Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48–56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality and customs by the Home Secretary and by any person exercising such functions on her behalf.

The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions. However, functions exercised at removal centres, short-term holding facilities and under escort arrangements are excepted insofar as these are subject to inspection by His Majesty's Chief Inspector of Prisons or His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (and equivalents in Scotland and Northern Ireland).

The legislation directs the Independent Chief Inspector to consider and make recommendations about, in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on section 19D of the Race Relations Act 1976 (c. 74) (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within 8 weeks of receipt, subject to both Houses of Parliament being in session.

Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

As soon as a report has been laid in Parliament, it is published on the Inspectorate's website, together with the Home Office's response to the report and recommendations.

Annex C – ICIBI 'expectations'

Background and explanatory documents are easy to understand and use (e.g. statements of intent (both ministerial and managerial), impact assessments, legislation, policies, guidance, instructions, strategies, business plans, intranet and GOV.UK pages, posters, leaflets etc.)

- They are written in plain, unambiguous English (with foreign language versions available, where appropriate)
- They are kept up to date
- They are readily accessible to anyone who needs to rely on them (with online signposting and links, wherever possible)

Processes are simple to follow and transparent

- They are IT-enabled and include input formatting to prevent users from making data entry errors
- Mandatory requirements, including the nature and extent of evidence required to support applications and claims, are clearly defined
- The potential for blockages and delays is designed out, wherever possible
- They are resourced to meet time and quality standards (including legal requirements, Service Level Agreements, published targets)

Anyone exercising an immigration, asylum, nationality or customs function on behalf of the Home Secretary is fully competent

- Individuals understand their role, responsibilities, accountabilities and powers
- Everyone receives the training they need for their current role and for their professional development, plus regular feedback on their performance
- Individuals and teams have the tools, support and leadership they need to perform efficiently, effectively and lawfully
- Everyone is making full use of their powers and capabilities, including to prevent, detect, investigate and, where appropriate, prosecute offences
- The workplace culture ensures that individuals feel able to raise concerns and issues without fear of the consequences

Decisions and actions are ‘right first time’

- They are demonstrably evidence-based or, where appropriate, intelligence-led
- They are made in accordance with relevant legislation and guidance
- They are reasonable (in light of the available evidence) and consistent
- They are recorded and communicated accurately, in the required format and detail, and can be readily retrieved (with due regard to data protection requirements)

Errors are identified, acknowledged and promptly ‘put right’

- Safeguards, management oversight, and quality assurance measures are in place, are tested and are seen to be effective
- Complaints are handled efficiently, effectively and consistently
- Lessons are learned and shared, including from administrative reviews and litigation
- There is a commitment to continuous improvement, including by the prompt implementation of recommendations from reviews, inspections and audits

Each immigration, asylum, nationality or customs function has a Home Office (Borders, Immigration and Citizenship System) ‘owner’

- The BICS ‘owner’ is accountable for
- implementation of relevant policies and processes
- performance (informed by routine collection and analysis of Management Information (MI) and data, and monitoring of agreed targets/deliverables/budgets)
- resourcing (including workforce planning and capability development, including knowledge and information management)
- managing risks (including maintaining a Risk Register)
- communications, collaborations and deconfliction within the Home Office, with other government departments and agencies, and other affected bodies
- effective monitoring and management of relevant contracted out services
- stakeholder engagement (including customers, applicants, claimants and their representatives)

Acknowledgements

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