



An inspection of family reunion applications

(June – December 2019)

David Bolt

Independent Chief Inspector of
Borders and Immigration

An inspection of family reunion applications

(June – December 2019)



© Crown copyright 2020

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/official-documents

This publication is also available at www.gov.uk/ICIBI

Any enquiries regarding this publication should be sent to us at

Independent Chief Inspector of
Borders and Immigration
5th Floor, Globe House
89 Eccleston Square
London, SW1V 1PN
United Kingdom

ISBN 978-1-5286-1736-9

CCS0120834092 10/20

Printed on paper containing 75% recycled fibre content minimum.

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office.

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.

All Independent Chief Inspector of Borders and Immigration inspection reports can be found at www.gov.uk/ICIBI

Email us: chiefinspector@icibi.gov.uk

Write to us: Independent Chief Inspector
of Borders and Immigration
5th Floor, Globe House
89 Eccleston Square
London, SW1V 1PN
United Kingdom

Contents

Foreword	2
1. Scope and purpose	4
2. Methodology	5
3. Summary of conclusions	6
4. Recommendations	10
5. Background	11
6. Inspection findings: Caseworker guidance	23
7. Inspection findings: Applying for family reunion	36
8. Inspection findings: Home Office resources	42
9. Inspection findings: Decision quality	47
10. Inspection findings: Putting things right	63
11. Inspection findings: Ownership	68
Annex A: Role and remit of the Independent Chief Inspector	79
Annex B: ICIBI 'Expectations'	81
Acknowledgements	83

Foreword

Dependent family members of individuals ('sponsors') who have been granted asylum or five years humanitarian protection leave to remain may apply to the Home Office to be reunited in the UK. These are referred to as 'family reunion' applications. Under the Immigration Rules, eligibility for family reunion is limited to spouses, civil partners, unmarried/same sex partners and biological children under the age of 18, who formed part of the family unit at the time the sponsor fled to seek asylum.

I first looked at the Home Office's handling of family reunion applications in 2016 in response to concerns expressed about the efficiency and fairness of the Home Office's management of them. Stakeholders argued that the process was unnecessarily protracted, that applicants were being held to excessively high thresholds to establish their identity, and that the requirement to produce documentary evidence of identity and of the claimed relationship to the sponsor was impacting disproportionately on applicants from areas of conflict.

The 2016 inspection focused on the three visa posts (Amman, Istanbul and Pretoria) with the highest numbers of applicants, looking particularly at the nationalities (Syrians, Iranians, Eritreans, Somalis and Sudanese) that had made the most applications and were most often refused.

Overall, the inspection found that the Home Office was too ready to refuse applications where it judged that the applicant had failed to provide sufficient evidence to satisfy the eligibility criteria, when deferring a decision to allow the applicant to produce the 'missing' evidence might be the fairer and more efficient option.

The report made ten recommendations, all of which the Home Office accepted. Collectively, these were aimed at helping the Home Office to reassure applicants, stakeholders and others that it recognised the particular challenges surrounding family reunion applicants, and that it managed applications not just efficiently and effectively, but thoughtfully and with compassion.

Two follow-up inspections, of Istanbul (in 2017) and Amman (in 2018), found evidence of progress in some areas, but after the second of these, eight of the original recommendations still remained 'open'. The Home Office challenged my conclusion that, after initial efforts to address the issues identified in the 2016 report, this had ceased to be a priority. It referred to ongoing work on the approach to family reunion as part of a wider review of its asylum and resettlement strategy, and to consideration of debates in the context of two Private Members' Bills relating to family reunion, which the Home Office said it would follow closely. It would also continue "productive discussions with key Non-Governmental Organisations (NGOs)". Meanwhile, the Home Office insisted that development of family reunion policy remained a high priority and it would update the guidance once a firm position had been reached.

This latest inspection found that, since 2018, the Home Office had moved the bulk of family reunion decision-making to Asylum Operations (in Sheffield), with only those applications submitted in Khartoum still considered by Entry Clearance Officers (ECOs) at the Pretoria Decision Making Centre (DMC).

The original inspection had urged the Home Office to recognise that family reunion applications were different in nature from the other types of visa applications handled by overseas DMCs, and required an approach that took full account of the inherent and sometimes acute vulnerability and protection needs of applicants. Implicit in this was the question of whether ECOs, dealing for the most part with visitor visas, were best-placed to be making these decisions.

I therefore welcome the transfer of this work to Asylum Operations. This is not to suggest that Asylum Operations (Sheffield) does not need to improve its handling of family reunion applications, for example, making more use of interviews of sponsors and/or applicants to try to resolve any concerns rather than to refuse an application. But, while there may be some justification in Pretoria's view that it has been left with some of the most difficult cases, the inspection found that Sheffield's grant rates were higher, decision quality was better and refusals were more clearly explained, and in general Sheffield showed greater awareness and sensitivity. To avoid any sense that, by default, it has created a two-tier system for family reunion, the Home Office needs to find a solution to the logistical difficulties behind Khartoum cases not having been on-shored.

During the course of this inspection, stakeholders raised numerous concerns about Visa Application Centres (VACs), including the fact that many family reunion applicants had to make difficult, dangerous and expensive journeys, in some cases crossing into another country, possibly more than once, just to attend a VAC appointment, but also aspects of VAC performance. While getting its decisions right is clearly crucial, the Home Office needs to ensure that the end-to-end family reunion application process is working for applicants, and this requires greater understanding and ownership by operational directorates of the 'front-end services' that are being provided.

Both Private Members' Bills fell with the end of the last Parliamentary session. However, their main aim was clear enough, and is one that is shared by other stakeholders: expand the eligibility criteria for sponsors and for applicants. If it is serious about listening to these voices, and if family reunion genuinely remains a priority, the Home Office should now seize the initiative and propose those policy changes it believes will improve the family reunion route. Pending any changes, it needs to work on its structures and processes to provide all family reunion sponsors and applicants with the quality of service their situation demands.

This report makes five recommendations. It was sent to the Home Secretary on 7 January 2020.

D J Bolt
Independent Chief Inspector of Borders and Immigration

1. Scope and purpose

- 1.1** This inspection examined the efficiency and effectiveness of the Home Office’s management of family reunion applications, focusing on:
- the transfer of the decision-making from Entry Clearance Decision Making Centres (DMCs) to Asylum Operations (Sheffield)
 - decision-making at the Pretoria DMC in relation to family reunion applications made in Khartoum
- 1.2** Where relevant, the inspection reviewed the progress the Home Office had made towards implementing the recommendations from ‘An inspection of family reunion applications (January to May 2016)’,¹ published in September 2016, taking into account the findings from the subsequent re-inspections of the management of family reunion applications at the Istanbul² and Amman DMCs.³
- 1.3** Due to the small numbers of applications, this inspection did not consider family reunion applications made in the UK.⁴

1 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/561815/ICIBI-inspection-of-family-reunion-applications-January-to-May-2016.pdf

2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/631612/An-interim-re-inspection-of-Family-Reunion.pdf

3 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737724/Final_Artwork_Reinspection_Family_Reunion_Amman.pdf

4 According to the Home Office, fewer than 200 applications were made in the UK in the year to May 2019.

2. Methodology

2.1 Inspectors:

- reviewed open source information about family reunification
- reviewed relevant ICIBI inspection reports: ‘An inspection of family reunion applications (January to May 2016)’, ‘An interim re-inspection of Family Reunion applications received at the Istanbul Entry Clearance Decision Making Centre (December 2016 to March 2017)’, and ‘A re-inspection of the family reunion process, focusing on applications received at the Amman Entry Clearance Decision Making Centre (November 2017 to April 2018)’
- made familiarisation visits to the relevant Home Office units in London and Sheffield, and reviewed the preliminary evidence provided by the Home Office, in order to finalise the scope of the inspection
- published a ‘Call for evidence’ on the ICIBI website seeking contributions from anyone with knowledge or experience of the family reunion process
- met five stakeholder organisations, and through them also met family reunion sponsors and applicants
- analysed the documentary evidence and data provided by the Home Office in response to ICIBI’s formal evidence request
- interviewed and held focus groups with Home Office managers and staff from Administrative Officer (AO) to Senior Civil Servant (SCS)
 - in Sheffield (Asylum Operations and Central Operations teams)
 - in Solihull (Administrative Support and Operations Management)
 - in Pretoria (Entry Clearance Decision Making Centre)
 - in London and Manchester (Asylum Policy teams)
- visited the Visa Application Centre (VAC) in Pretoria
- examined 176 case file records for family reunion applications decided between 1 July 2018 and 30 June 2019
 - 101 in Sheffield (73 grants and 28 refusals)
 - 75 in Pretoria (45 grants and 30 refusals)
- presented the emerging findings from this inspection to Home Office senior management on 18 September 2019

3. Summary of conclusions

- 3.1** While there are other routes that may lead to family reunification, the primary route for family members seeking to be reunited with a person who has been granted refugee status or humanitarian protection in the UK is a family reunion visa application. According to Home Office data, since 2015 almost 40,000⁵ family reunion visa applications have been made, almost three-quarters (72%) of which have been successful.
- 3.2** ICIBI inspected the family reunion process in 2016, focusing on the three overseas Decision Making Centres (DMCs) that received the most applications: Amman, Istanbul and Pretoria. In 2017, ICIBI re-inspected Istanbul and, in 2018, Amman. This latest inspection was intended as a re-inspection of the Pretoria DMC, and a stock-take of the family reunion process as a whole.
- 3.3** A theme of the 2016 inspection report was that the Home Office needed to recognise that an application for a family reunion visa was different in nature from other types of visa application and required a different approach, in particular one that took full account of the inherent and, in some cases, acute vulnerability and protection needs of applicants, and demonstrated compassion and discretion when deciding whether to grant or refuse a visa. Implicit in this was the question of whether Entry Clearance Officers (ECOs) were best-placed to make these types of decisions.
- 3.4** In March 2019, the Home Office completed the transfer of the majority of family reunion decisions to Asylum Operations (Sheffield). Apart from some unresolved applications that were in the system, the only DMC still making family reunion decisions was Pretoria and then only for those applications lodged through the Visa Application Centre (VAC) in Khartoum, which accounted for around 29% of the overall annual intake of family reunion applications.
- 3.5** At the time of this inspection, Asylum Operations (Sheffield) was still “bedding in” its processes and Pretoria had recently (in July 2019) created a ‘Khartoum team’ to provide a degree of expertise and consistency to its visa decision-making. Nonetheless, this was an opportunity to compare the two approaches to family reunion casework, something the Home Office had not yet done. This revealed an issue with ‘ownership’ and oversight of family reunion policy and practice, with the latter split at Senior Civil Servant (SCS) level within UKVI, with little interaction between the two decision-making teams, and some apparent uncertainty about where family reunion casework would sit in the longer-term, and the latter sitting in BICS Policy & International.
- 3.6** Family reunion policy, in particular the eligibility rules for sponsors and applicants, has been the subject of two Private Member’s Bills (both of which fell when the 2017-19 Parliamentary session came to an end in October 2019), as well as a proposed amendment to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, which was withdrawn in March 2019 following a statement by the Immigration Minister stressing the alternative routes available to family members not eligible to sponsor or make a family reunion application, and the discretion

⁵ The figure to 30 September 2019 was 36,836.

to grant family reunion applicants leave outside the Rules (LOTR), and giving an assurance that the government was “listening carefully to calls to extend family reunion and closely following the passage of the private Members’ Bills on this subject”.

- 3.7** Parliamentarians and stakeholders have been particularly concerned that children are not able to act as sponsors for their parents or family members, setting the UK’s family reunion policy apart from those of other EU countries. During this inspection, the Home Office made it clear to inspectors that there was no intention (a “ministerial red line”) to reconsider this, having consistently argued that it would “risk creating incentives for more children to be encouraged, or even forced, to leave their family and risk hazardous journeys to the UK.” Whether or not this would be the case, the Home Office has not provided any evidence to support its position.
- 3.8** The inspection looked at family reunion guidance published by the Home Office. Caseworkers in Asylum Operations (Sheffield) and in the Pretoria DMC told inspectors that they found the guidance clear, including in relation to identifying “exceptional circumstances and compassionate factors” which could lead to a grant of LOTR. However, the inspection raised two concerns about the latter.
- 3.9** Firstly, accepting that each case must be judged on its individual merits, that it is not possible to itemise every exceptional circumstance and compassionate factor, and that the guidance contains some helpful examples, it is unrealistic to think that family reunion sponsors and applicants could readily understand from the guidance what evidence they might need to provide to demonstrate that exceptional circumstances and compassionate factors apply in their case. Even if they were fluent in English, which most are not, the language is dense and often opaque. Stakeholders and others, such as legal representatives, who regularly support family reunion sponsors and applicants may, through practice, be better able to navigate and interpret the guidance, and also to apply any learning from refusal notices, but without any sense of certainty.
- 3.10** Secondly, the number of applications being referred to the Referred Casework Unit (RCU), while still relatively low overall and in line with the policy intention that LOTR should be granted “only rarely”, were much higher for Asylum Operations (Sheffield) than for the Pretoria DMC. The Home Office had not identified this and therefore had not examined the possible reasons, including whether different standards were being applied or whether the policy might need to be reconsidered.
- 3.11** Based on the examination of a sample of applications decided between 1 July 2018 and 30 June 2019, plus interviews with Home Office managers and staff and contributions from stakeholders, it appeared that, notwithstanding the creation of the Khartoum Team, the approach to family reunion decision-making in Pretoria had not changed materially since the 2016 inspection: an entry clearance ‘mindset’ that took insufficient account of the circumstances of the applicants, with a readiness to refuse, unreasonable expectations in relation to supporting evidence, and limited quality assurance. By comparison, Asylum Operations (Sheffield) showed more awareness of the nature of these applications and greater sensitivity. This was reflected not just in the grant rates (54% for Pretoria and 80% for Sheffield), but also in the quality of the decisions and how refusals were explained, and in the extent of stakeholder engagement.
- 3.12** Pretoria pointed out that with its family reunion casework from other VACs having been on-shored to Sheffield it was left with the most difficult applications, and that as Asylum Operations (Sheffield) became more familiar with family reunion applications its decisions

were likely to become more robust. Concerns were also expressed about Sheffield's ability to identify fraudulent documents. While these may be fair points, it was nonetheless clear from this inspection that Asylum Operations (Sheffield) was better-suited to deciding family reunion applications than Pretoria.

- 3.13** It appeared that the main reason Khartoum applications had remained with the Pretoria DMC was that the supporting documents could not be provided to Asylum Operations (Sheffield) electronically by the Khartoum VAC. Instead, hard copies were couriered to Pretoria. While not dismissing the logistical challenges, this should not be allowed to result in a two-tier process, and the Home Office needs to find a solution or workaround and deliver on the plan it referred to in its response to the 2016 inspection report "to consolidate family reunion decision-making into one UK-based team".
- 3.14** This is not to suggest that Asylum Operations (Sheffield) does not need to improve its handling of family reunion applications. The temporary arrangements for resourcing some key roles,⁶ overall staffing levels, and the separation of the caseworkers from their administrative support (in Solihull) all need to be resolved. And, while Sheffield's refusal rate was lower than the historical average for family reunion applications as a whole (and much lower than Pretoria DMC's rate for 2019) there was still a case for making more use of interviews of sponsors and/or applicants to try to resolve any concerns rather than to refuse an application, as recommended in the 2016 inspection report and accepted by the Home Office. (The sample of 176 case files recorded only one interview).
- 3.15** This inspection, like the previous ones, focused on the family reunion process from the point that the Home Office receives the application and supporting evidence, up to the delivery of the decision. However, for the applicants the process includes an appointment to attend a VAC in order to register their biometrics and submit relevant documents.
- 3.16** Stakeholders raised numerous concerns about VACs in relation to family reunion applicants: that many applicants had to make difficult, dangerous and expensive journeys, in some cases crossing into another country, possibly more than once, just to attend a VAC appointment; that VAC staff failed to understand that applicants may not possess travel documents, with some applicants being denied access to the VAC on this account; that getting free appointments was difficult, with VACs looking to charge for their services, including entry to the building, and in some cases corruptly demanding payment in order to expedite applications; that VAC staff had provided misleading or incorrect information to applicants; and, that VACs were failing to notify applicants that their documents were ready for collection, resulting in them having less time to make travel plans and, in some cases, not being able to do so before their 30-day visa expired.
- 3.17** This inspection was unable to explore these concerns in any depth. The functioning of VACs and how this affects the overall process of applying for a visa from overseas requires its own focused inspection. Here, it was unclear to what extent the Home Office was sighted on stakeholders' concerns, specifically in relation to family reunion applicants and, more generally, whether the measures in place to monitor and address contract compliance by the VACs were effective. There was some "firefighting" by Sheffield and Pretoria when particular cases were raised with them and a regime of service credits for breaches of agreed performance targets managed centrally by Home Office Commercial teams, but there was little sense that the Home Office regarded VACs as anything more than a conduit for applications, rather than seeing them as a key actor in the family reunion process.

⁶ At the beginning of December 2019, the Home Office provided an update on these temporary arrangements. This is covered later in this report.

- 3.18** Both in responding to the findings of the previous re-inspections and in the course of this inspection, the Home Office rejected the charge that family reunion policy (and the decisions that flow from it) has ceased to be a priority. Previously, it referred to the need to take account of what might emerge from the two Private Members' Bills as a reason for not pressing forward with any changes to policy, the exception being an enforced change to the use of DNA evidence caused by wrongfully requiring in another part of UKVI.
- 3.19** But, the Private Members' Bills having fallen, the Home Office now needs to demonstrate that it has indeed listened to stakeholders regarding: expanding the eligibility criteria for sponsors and applicants; enabling access to legal aid;⁷ extending the validity of visas beyond 30 days; fixing issues with the application process itself, starting with the VACs; and including the online form and requirements for supporting documents. And, where it looks to resist demands for these changes, it needs to show that it has a robust evidence base for its current policy and practice.

⁷ Policy on legal aid is owned by the Ministry of Justice. However, the Home Office needs to ensure that the policy does not frustrate its own policy intentions and practice.

4. Recommendations

The Home Office should:

- 4.1** Take all necessary steps to onshore decision-making for family reunion applications from the Pretoria Decision Making Centre to Asylum Operations (Sheffield) before the end of 2019-20, and support this with a clear statement to staff and stakeholders about the permanency of this arrangement.
- 4.2** Complete the review of the resourcing of Asylum Operations (Sheffield), ensuring that it has the capacity, skills and experience to manage the global intake of family reunion applications, plus co-located administrative support and access to relevant IT systems and technical support (for example, document fraud experts, country specialists, interpreters, experts in assessing vulnerabilities).
- 4.3** Ensure that Management Information (MI) in respect of family reunion applications is sufficient, not just to support the efficient processing of applications and to assure decision quality but also to provide insights into the profiles and circumstances of applicants, the reasons why applications succeed or are refused, and any trends, in order to check that both the operational response and the underpinning policies are fit for purpose.
- 4.4** Pending any new legislation, clarify the Home Office's position (with supporting evidence) in relation to those areas of the present policy that have been the subject of Parliamentary and stakeholder interest, in particular: child sponsors; dependent family members over 18 years of age; funding for DNA tests; availability of legal aid.
- 4.5** Ensure that the reporting from and oversight of the operation of Visa Application Centres (VACs) is sufficient to understand in detail and respond quickly to any practical or other obstacles affecting their accessibility for family reunion applicants, including: where they are located and whether alternative solutions (for example, mobile biometric clinics) may be required; the availability of free appointments; recognition of the particular circumstances of family reunion applicants, so that they are not met with unreasonable demands for documentation, return visits and fees.

5. Background

International recognition of the right of refugees to family unity

5.1 The right of refugees to family unity has long been recognised by the international community. It was affirmed by the Conference on Final Act of the United Nations of Plenipotentiaries on the Status of Refugees and Stateless Persons held in Geneva from 2 July to 25 July 1951, which led to the 1951 Refugee Convention. The former recommended that governments undertake measures to assure family unity.

5.2 Through case law, the UN Human Rights Committee has since underlined the importance of refugee family reunion and the role of States in facilitating rights of refugees to family life.⁸ Meanwhile, the European Court of Human Rights (ECHR) has made a number of rulings in relation to Article 8 and the right to a family life, though primarily concerning the denial of this right where a person stands to be removed rather than its facilitation for refugees.

5.3 European Council Directive 2003/86/EC ‘on the right to family reunification’ set out how EU Member States should approach family reunification “in conformity with the obligation to protect the family and respect family life enshrined in many instruments of international law.” It noted that:

“Special attention should be paid to the situation of refugees on account of the reasons which obliged them to flee their country and prevent them from leading a normal family life there. More favourable conditions should therefore be laid down for the exercise of their right to family reunification.”

5.4 The UK, along with Ireland and Denmark, did not opt into Directive 2003/86/EC.

5.5 In 2005,⁹ the UN Committee on the Rights of the Child commented on the treatment of unaccompanied and separated children outside their country of origin. It emphasised the centrality of the ‘best interests’ principle, noting:

“States parties are particularly reminded that “applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner [emphasis added]” and “shall entail no adverse consequences for the applicants and for the members of their family” (art. 10(1)).”

5.6 Refugee children in the UK are not eligible to sponsor an application for a family reunion visa from their parent(s) or family member(s).

⁸ <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/Jurisprudence.aspx>

⁹ General Comment No. 6 (2005).

5.7 Along with all EU member States except Denmark, the UK is subject to Dublin Regulation (EU) No. 604/2013 (known as ‘Dublin III’), which established the criteria and mechanisms for determining which Member State was responsible for examining an application for international protection lodged by a third-country national or a stateless person.

Routes to family reunification in the UK

5.8 During a House of Commons debate on Refugee Family Reunion on 20 June 2019, the Immigration Minister, Rt. Hon Caroline Nokes, stated:

“... we [the Government] recognise the importance of family reunion, and our policy provides safe and legal routes to bring families together.”¹⁰

5.9 The primary route for family members seeking to be reunited with a person who has been granted refugee status in the UK is a family reunion visa application. However, other routes that may result in family reunification may include:¹¹

- Vulnerable Persons Resettlement Scheme (VPRS), where ‘family reunification’ is one of UNHCR’s resettlement submission categories against which it assesses refugees for referral into the Scheme
- Vulnerable Children’s Resettlement Scheme (VCRS), which encompasses unaccompanied children but has been used mostly for children in families or with care-givers (an adult UNHCR is satisfied has assumed legitimate responsibility for the child)
- the Gateway Protection programme, which uses the same resettlement submission categories as VPRS for individuals who have been living in a protracted refugee situation for over five years, or whose life is in danger
- the Mandate resettlement scheme, which is for a recognised refugee who is a minor child, spouse, or parent or grandparent aged over 65, of someone settled in the UK, or who has limited leave to remain in a category leading to settlement, who is willing to accommodate and support them. (The UK relative does not need to hold refugee status.)
- Section 67 of the Immigration Act 2016,¹² ‘Dubs Amendment’, which required the Home Secretary to “make arrangements to relocate to the United Kingdom and support a specified number¹³ of unaccompanied refugee children from other countries in Europe.”^{14 15}
- Adult dependant relatives of a person with refugee leave or humanitarian protection under Appendix FM of the Immigration Rules.¹⁶

¹⁰ <https://hansard.parliament.uk/Commons/2019-06-20/debates/17F2CA58-585D-40A5-8EA4-788C2748DC45/RefugeeFamilyReunion>

¹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730643/Resettlement_Policy_document_.pdf

¹² <http://www.legislation.gov.uk/ukpga/2016/19/section/67/enacted>

¹³ The Act states that: “The number of children to be resettled under subsection shall be determined by the Government in consultation with local authorities” and “shall be in addition to the resettlement of children under the Vulnerable Persons Relocation Scheme.”

¹⁴ The government invited referrals of eligible children from France, Greece and Italy.

¹⁵ To be eligible, it must be determined that it would be in the child’s best interests to come to the UK. UNHCR holds that: “Resettlement is normally in the best interests of the child if it leads to family reunification”. <https://www.unhcr.org/uk/protection/children/4566b16b2/unhcr-guidelines-determining-best-interests-child.html>

¹⁶ <https://www.gov.uk/government/publications/chapter-8-appendix-fm-family-members>

Family reunion visa applications

Volumes

5.10 Figure 1 shows the number of family reunion applications recorded as received by the Home Office between 2015¹⁷ and 2018, plus the figures for 2019 to the end of September.

Figure 1: Family reunion applications received since 2015						
	2015	2016	2017	2018	2019 to 30 Sept	Totals
Amman DMC	1,676	1,736	1,057	730	25	5,224
Istanbul DMC	1,719	1,301	964	445	13	4,442
Pretoria DMC	2,706	3,374	3,493	3,850	2,095	15,518
Sheffield DMC	509	811	1,245	1,130	167	3,862
Other DMCs	1,566	1,191	435	558	487	4,237
Asylum Operations Sheffield	N/A	N/A	N/A	856	4,492	5,348
Total	8,176	8,413	7,194	7,569	7,279	38,631

- 5.11** The numbers have fluctuated from year to year. Having dipped significantly (by over 14%) in 2017, the trend has since been upwards. If the rate for the nine months to September 2019 continued through to the end of the year the total for 2019 would be around 9,700.
- 5.12** The annual totals for the principal Decision Making Centres (DMCs) for family reunion applications have also fluctuated, initially reflecting the onshoring of visa decision-making from overseas DMCs to the Sheffield DMC, and then the transfer of UK-based decision-making from UKVI's Visas and Citizenship directorate to Asylum Operations. Between January and May 2019, 62% of the 7,279 family reunion applications received had been routed to Asylum Operations (Sheffield) for a decision. Of the DMCs, only Pretoria was still making significant numbers of family reunion decisions, receiving 29% of all applications between January and September 2019.
- 5.13** To put the number of family reunion applications into context, according to the transparency data published by the Home Office, in the 12 months to June 2019 the UK received 32,693 claims for asylum, an increase of 21% on the previous year.

¹⁷ In Figures 1 and 2, the totals for 2015 are taken from the report of the 2018 reinspection of Amman. The figures for 2017 to 2019 were provided for the current inspection. Those for 2016 and 2017 show small differences from the figures quoted in the Amman reinspection report, which are not material to the overall picture.

Outcomes

5.14 Figure 2 shows the numbers of family reunion applications resolved each year.

Figure 2: Family reunion applications resolved since 2015						
	2015	2016	2017	2018	2019 to 30 Sept	Totals
Granted	5,389 (66%)	5,974 (72%)	5,272 (73%)	5,416 (72%)	4,169 (72%)	26,214
Refused	2,642 (32%)	2,264 (27%)	1,882 (26%)	2,079 (28%)	1,585 (28%)	10,452
Withdrawn	40	38	34	34	16	162
Lapsed	84	16	6	1	1	108
Total	8,155	8,292	7,194	7,530	5,771	36,936

5.15 Since 2016, there has been a relatively consistent ratio of almost 3:1 grants to refusals. While the number of resolved applications in any year will not match exactly the number of applications received (because of the time taken to process applications), the totals of each between 2015 and 2018 show that the Home Office remained on top of this workstream. The figures for 2019 to 30 September show that a significant gap has emerged which the Home Office would do well not to allow to grow any larger, as this could put at risk its ability to manage the flow of family reunion applications within the Customer Service Standard.

Nationalities

5.16 The 'top 10' nationalities making family reunion applications, according to Home Office data, are shown in Figure 3. Since 2016, there have been changes to the order, but Eritrea, Sudan, Iran and Syria have consistently featured as the top four.

Figure 3: Top 10 nationalities making family reunion applications							
2016		2017		2018		2019 to 30 Sept	
Syria	2,420	Eritrea	1,493	Eritrea	1,717	Eritrea	1,802
Sudan	1,227	Syria	1,071	Sudan	1,144	Sudan	1,174
Eritrea	1,214	Sudan	1,062	Syria	913	Iran	1,153
Iran	676	Iran	833	Iran	790	Syria	746
Pakistan	329	Ethiopia	347	Ethiopia	318	Ethiopia	225
Ethiopia	302	Afghanistan	287	Afghanistan	301	Afghanistan	215
Somalia	281	Somalia	255	Somalia	279	Somalia	212
Sri Lanka	273	Pakistan	251	Sri Lanka	213	Sri Lanka	160
Afghanistan	235	Sri Lanka	250	Pakistan	198	Turkey	152
Zimbabwe	143	Stateless	144	DRC	167	Pakistan	151

Onshoring of visa decision-making

5.17 Between January 2008 and April 2019, the Home Office closed 102 overseas DMCs, leaving just 10 open.¹⁸ Visa decision-making moved to larger DMC 'hubs', each servicing a number of

18 Abu Dhabi, Amman, Beijing, Chennai, Istanbul, Manila, New Delhi, Pretoria, Riyadh and Warsaw.

locations ('spokes'). During this period, the Home Office created two UK DMCs, in Croydon (opened in 2009) and in Sheffield (opened in 2012) and engaged in a programme of onshoring visa decision-making to the UK DMCs, including onshoring some visa routes from DMCs that remained open. From the end of May 2017, family reunion applications made in Amman¹⁹ were on-shored to the Sheffield DMC.

- 5.18** In 2018, the decision was taken to begin transferring decision-making for on-shored family reunion visa applications from the Sheffield DMC to a team within Asylum Operations, also based in Sheffield. Applications made in Amman were transferred in August 2018. This process was accelerated in 2019. From the end of March 2019, family reunion applications made in Istanbul were on-shored to Asylum Operations Sheffield, as were those from all other DMCs that had not yet been transferred.²⁰
- 5.19** Onshoring has been made possible by the digitisation of application processes. Most UK visas can be applied and paid for online. Supporting documents can be scanned and attached to the application. However, applicants need to attend an appointment at a Visa Application Centre (VAC) to enrol their biometrics. VACs also provide a scanning service, free of charge, where an applicant brings documents they wish to submit in support of their application.
- 5.20** The worldwide network of VACs is run by two commercial companies under contract to the Home Office. The VACs themselves are housed away from the British Embassy or High Commission. The Khartoum VAC is an exception. It is located in the British Embassy in Sudan and staffed by the Home Office. Unlike the other VACs in sub-Saharan Africa, the Khartoum VAC is not able to send applicants' other supporting documents electronically to UKVI. Instead, it sends the relevant hard-copy documents to the Pretoria DMC by courier.
- 5.21** According to Home Office data, between 2016 and 2018 almost half of all family reunion applications made each year at VACs in sub-Saharan Africa were made at the Khartoum VAC (see Figure 4). These applications were considered by the Pretoria DMC. The Khartoum VAC remained the busiest in sub-Saharan Africa in 2019, although its proportion of the total dropped slightly to 43%.
- 5.22** Since March 2019, family reunion applications made at VACs throughout sub-Saharan Africa, except for Khartoum, have been directed electronically to Asylum Operations (Sheffield). Meanwhile, since July 2019, the Pretoria DMC has had a designated team of Entry Clearance Officer (ECO) decision makers dealing with all types of visa applications from Khartoum, including family reunion applications.

¹⁹ Amman, Istanbul and Pretoria were the three busiest DMCs for family reunion applications at the time of the 2016 inspection.

²⁰ With the exception of any applications made at the Barcelona Visa Application Centre, which were on-shored to Asylum Operations (Sheffield) at the end of May 2019.

Figure 4: Family reunion applications made at sub-Saharan Visa Application Centres by year, 2016 to 2019 (to 30 September 2019)²¹

2016		2017		2018		2019 to 30 September	
Khartoum	1,212	Khartoum	1,477	Khartoum	1,650	Khartoum	1,019
Addis A	666	Addis A	719	Addis A	837	Addis A	687
Kampala	283	Kampala	468	Kampala	700	Kampala	460
Harare	116	Kinshasa	109	Kinshasa	131	Kinshasa	62
Nairobi	93	Harare	80	Nairobi	88	Nairobi	52
Kinshasa	80	Nairobi	79	Harare	73	Harare	26
Pretoria	10	Kigali	18	Mombasa	43	Kigali	21
Maputo	4	Lusaka	11	Kigali	16	Pretoria	5
Jo'burg	4	Mombasa	11	Jo'burg	8	Mombasa	5
Luanda	4	Pretoria	6	Pretoria	6	Jo'burg	4
Lilongwe	3	Jo'burg	6	Lusaka	6	Durban	3
Lusaka	3	Luanda	4	Luanda	5	Cape Town	2
Kigali	2	Maputo	2	Lilongwe	4	Luanda	2
Mombasa	1	Cape Town	2	Gaborone	3	Lilongwe	1
Cape Town	1	Lilongwe	1	Cape Town	3	Maputo	1
Port Louis	1	Gaborone	1	Maputo	2		
		Port Louis	1	Durban	1		
Total	2,483	Total	2,995	Total	3,576	Total	2,350

Previous ICIBI inspection reports

2016

- 5.23** The initial ICIBI report on family reunion applications, published in September 2016, examined the three overseas Decision Making Centres (DMCs), Amman, Istanbul and Pretoria, that were receiving the most applications. The report contained ten recommendations, all of which were accepted by the Home Office.
- 5.24** The report identified the particular challenges faced by many family reunion applicants, including the difficulties of providing documentary evidence to support an application either because it had never existed or it had been destroyed or lost. Overall, it found that the Home Office was too ready to refuse applications where it judged that the applicant had failed to provide sufficient evidence to satisfy the eligibility criteria, when deferring a decision to give the applicant the opportunity to supply additional evidence might have been the fairer and more efficient option.

²¹ The data used to establish the number of applications submitted at each VAC includes 1,234 cases where the date is 'blank' and therefore cannot be attributed to a specific year. Figure 1 shows Pretoria received 12,812 applications between 2016 and 2019 (to 30 September), while Figure 4 shows 12,638 (including the 1,234 'blanks') for the same time period. There is therefore a shortfall of 174 over c.4 years.

5.25 The ten recommendations covered:²²

- ensuring asylum screening and substantive interviews captured details of family members, and making the retrieval of these records by decision makers easier and quicker
- providing decision makers with better access to interpreters so that interviewing applicants and/or sponsors was a practicable option
- reviewing the use of DNA evidence, including commissioning and funding tests, deferring decisions pending results and updating relevant guidance
- fully considering all available evidence, retaining or recording evidence relied upon in making the decision, explaining the rationale in the case record and refusal notice, and ensuring effective Entry Clearance Manager reviews
- reviewing and issuing clear guidance, ensuring consistent use of ‘general grounds for refusal’, and of ‘exceptional circumstances’ or ‘compassionate factors’, particularly for applications from spouses aged under 18
- reconsidering whether the ‘Review to Risk’ approach gave sufficient weight to the potential humanitarian protection consequences of refusals
- reviewing internal ‘hand-offs’ to reduce the time taken to deal with applications
- ensuring that applications were not wrongly ‘complexed’
- signposting the evidence applicants should provide in order to increase ‘right first time’ decisions and to reduce appeals and reapplications
- responding to Kuwaiti Bidoon family reunion applicants from 2013 to 2015, whose applications had been stalled because of a protracted investigation into suspected false claims

5.26 Prior to the publication of the inspection report, the Home Office updated its interview guidance for asylum caseworkers “emphasising the need to obtain full details of the claimant’s family members during the asylum process and setting out why this is important.” It also took steps towards making asylum records more easily available to family reunion decision makers.

5.27 In addition, in July 2016, new guidance on considering family reunion applications was published, with “Masterclasses” involving policy experts and decision makers scheduled for later in the year. This guidance clarified that the ‘general grounds for refusal’ applied to family reunion applications and explained how and when ‘exceptional circumstances’ or ‘compassionate factors’ should be considered. The Home Office contended that the guidance was clear about what evidence applicants could consider submitting with their application, but this would “be reviewed periodically to ensure it is up to date and effective”.

5.28 In relation to the Kuwaiti Bidoon applications, in September 2016 the Home Office stated in its formal response to the report and recommendations that they had all now had a decision, and that, in future, such cases would “fall into the ‘complex case handling’ arrangements, which includes contacting the applicants to explain what is happening with their application when there will be a delay in processing it”.

²² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553190/Home_Office_Response_to_ICI_Report_on_Family_Reunion_Applications.pdf

5.29 The Home Office’s formal response identified a number of further actions it was planning to take, including:²³

- formulating plans to consolidate family reunion decision-making into one UK-based team, which would have access to a “central interpretation capability” that UKVI was establishing, easier access to asylum records, and reduce unnecessary ‘hand-offs’
- a review of the Home Office’s policy on DNA evidence, the outcome of which “should be known by the end of the year”
- a review of guidance on how decisions are recorded, plus new quality assurance measures, including an analysis of the effectiveness of ECM reviews
- a review of guidance on how to consider applications from spouses who are under 18 that “will be published later in the year”
- tasking regional teams to carry out more analysis of family reunion cases to ensure that regional ‘Review to Risk’ strategies take “a more holistic view”
- prior to decision-making being consolidated in the UK, looking at better ways of handling applications to ensure the minimum of systemic delays
- reviewing and reissuing guidance about marking cases as ‘complex’

2017

5.30 In 2017, an interim reinspection of family reunion applications decided in Istanbul found that the Home Office had made some progress since the 2016 report but noted there had been little movement in two areas: access to interpreters to enable interviews of applicants to clarify points of detail, and the commissioning and funding of DNA evidence. From a small sample of family reunion applications, the Istanbul DMC appeared to have improved its handling of applications. However, given the limited evidence base, the report concluded that all ten recommendations should remain ‘open’ pending a more extensive reinspection.

2018

5.31 Between November 2017 and April 2018, ICIBI re-inspected the Amman DMC. This involved reviewing data for family reunion applications received in 2015, 2016 and 2017, checking on progress in implementing the 2016 recommendations, and examining 48 case records for applications made at Amman between April and October 2017. Based on this and the earlier Istanbul reinspection, inspectors concluded that only two of the original ten recommendations could be considered ‘closed’: those referring to asylum interviews and to Kuwaiti Bidoons.

5.32 The 2018 ICIBI reinspection report highlighted the slow pace of policy development in relation to family reunion. The Home Office challenged the conclusion that, after initial efforts to address the issues identified in the 2016 report, this has ceased to be a priority. In its response,²⁴ dated September 2018, it said it was:

“... reviewing the approach to Family Reunion as part of the wider Asylum and Resettlement Strategy. As part of this review, consideration is being given to the recent debates on Refugee Family Reunion in the context of two Private Members’ Bills (Baroness Hamwee’s in the Lords, and Angus MacNeil’s in the Commons). The passage of these Bills will be followed closely whilst productive discussions with key Non-Governmental Organisations

²³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553190/Home_Office_Response_to_ICI_Report_on_Family_Reunion_Applications.pdf

²⁴ <https://www.gov.uk/government/publications/response-to-the-report-on-a-re-inspection-of-the-family-reunion-process>

(NGOs) in this area continue. Family Reunion policy development remains a high priority and the guidance will be updated once a firm position has been reached.”²⁵

- 5.33** Guidance for Home Office caseworkers, ‘Family reunion: for refugees and those with humanitarian protection’ was updated in March 2019. Under the heading ‘Changes from last version of this guidance’ it stated: “This guidance has been updated to make clear that officials must not require DNA evidence, but applicants can continue to choose to provide such evidence voluntarily”. Otherwise, the Home Office informed inspectors, “the [family reunion] policy remained the same”.

2019: Further inspection of the family reunion process

- 5.34** By revisiting family reunion decision-making at the Pretoria DMC, this latest report completed the cycle of reinspections of the three DMCs inspected in 2016. It also took a first look at the Asylum Operations team based in Sheffield, which, with effect from 2019, has been responsible for deciding the majority of family reunion applications.
- 5.35** In its evidence, the Home Office explained that in early 2019, responsibility for family reunion policy moved from the Asylum Decisions Policy Team to the Asylum Strategy Team,²⁶ in part to “think holistically about this route and implications for policy development across the asylum and resettlement system” and also driven by increasing stakeholder and political interest.
- 5.36** The Asylum Decisions Policy Team and the Asylum Strategy Team, both managed by the same Grade 6, retained some responsibilities for family reunion-related issues. The former told inspectors that it aimed to review family reunion policy every 12 months, but until the outcome of the two Private Members’ Bills was known there was nothing specifically to review. However, the team had input into the design of a new family reunion online application form.
- 5.37** Meanwhile, the Asylum Strategy Team told inspectors that, as well as its work on the Private Members’ Bills, it was “looking at possible amendments we may receive to the FR policy through the passage of the Immigration Bill, therefore developing a concession strategy to manage this”.

Parliamentary and stakeholder calls for changes to family reunion policy

Private Members’ Bills

- 5.38** The Refugees (Family Reunion) (No. 2) Bill 2017-19 was introduced by Angus MacNeill MP (SNP) and had its second reading on 16 March 2018.²⁷ The Bill sought to expand the definition of family member for family reunion purposes to include a parent and sibling, thereby giving unaccompanied refugee children the right to sponsor family members, which it linked to the “best interests” of the child principle, as contained in Article 3 of the 1989 UN Convention on the Rights of the Child. It also looked to recognise relationships arising from adoption, including “de facto adoption”, and to increase the age limit for children and siblings to

²⁵ Guidance for Home Office caseworkers, ‘Family reunion: for refugees and those with humanitarian protection’ was updated in March 2019. Under the heading ‘Changes from last version of this guidance’ it stated: “This guidance has been updated to make clear that officials must not require DNA evidence, but applicants can continue to choose to provide such evidence voluntarily.”

²⁶ Both policy teams are in the Asylum and Family Policy Unit.

²⁷ <https://services.parliament.uk/Bills/2017-19/refugeesfamilyreunionno2.html>

25 under certain conditions. The Bill also included a clause to extend legal aid to refugee family reunion applications.²⁸

- 5.39** The Refugees (Family Reunion) Bill [HL] 2017-19 went further in seeking a wider definition of family member to include, for example, an unmarried child aged 18 or over (with no upper age limit), nieces and nephews under the age of 18, and “any dependent relative not otherwise listed”. The Bill was sponsored by Baroness Hamwee and Tim Farron MP (Lib Dem) and had its first reading on 11 July 2018.²⁹
- 5.40** Neither of the Bills completed their passage through Parliament before the end of the 2017-19 Parliamentary session and as a result both Bills fell.

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

- 5.41** At the tenth sitting of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill on 5 March 2019, Stuart C. McDonald MP (SNP) brought up a new clause (51) “to expand refugee family reunion rules for EEA and Swiss nationals”, which sought to allow any person recognised as a refugee in the UK to sponsor

- “(a) children under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum;
- (b) parents; or
- (c) siblings under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum; to join them in the UK”

- 5.42** In moving this amendment, Mr McDonald referred to the “overwhelming support” for the Second Reading of the Refugees (Family Reunion) (No. 2) Bill and “growing frustration” about the delay in taking that Bill to the Committee stage.

- 5.43** Responding, the Immigration Minister commented on the Government’s family reunion policy:

“[it] provides a safe and legal route to bring families together. It allows adult refugees who are granted protection in the UK to sponsor a partner and children under 18 to join them, if they formed part of the family unit before the sponsor fled their country. Under that policy, we have granted visas to more than 26,000 partners and children of those granted protection in the UK in the past five years; that is more than 5,000 people a year.

Furthermore, our family reunion policy offers clear discretion to grant leave outside the Immigration Rules. That caters for children over 18 where there are exceptional circumstances or compassionate factors—for example, where they would be left in a conflict zone or a dangerous situation.

²⁸ Civil and criminal legal aid schemes in England and Wales are governed by Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (known as LASPO) and by supporting secondary legislation. LASPO was introduced by the Coalition Government, which argued that it had to make savings from the legal aid budget. The most significant changes were to the scope of the civil legal aid scheme. Under the previous scheme, set out in the Access to Justice Act 1999, the general approach was that any civil legal matter would be eligible for legal aid provided it was not one of the “excluded” matters listed in Schedule 2 to the 1999 Act. Individual applications for legal aid funding were assessed by reference to a ‘Funding Code’, which set out general principles on eligibility. LASPO effectively reversed this approach: civil legal matters are excluded from the scope of legal aid unless they are one of the matters listed in Schedule 1 to LASPO. Many areas of civil law were therefore removed from the scope of legal aid, which was no longer available for non-asylum immigration cases except for victims of trafficking or domestic violence, Special Immigration Appeals Commission (SIAC) cases, and Terrorism Prevention and Investigation Measures (TPIM) cases.

²⁹ <https://services.parliament.uk/Bills/2017-19/refugeesfamilyreunionbill.html>

The types of family member that the new clause is aimed at can apply under alternative routes. Under the Immigration Rules, adult refugees can sponsor adult dependent relatives. That includes parents, grandparents, children over 18 and siblings over 18 living overseas where, because of age, illness or disability, the person requires long-term personal care that can be provided only by their sponsor in the UK, and that will be without recourse to public funds.

Moreover, there are separate provisions in the rules to allow extended family who are adult refugees in the UK to sponsor children to come here where there are serious and compelling family or other considerations. That is an important measure, as it enables children to join family members in the UK through safe and legal means.

It is imperative that we think carefully about this issue. Adopting new clause 51 could significantly increase the number of people who could qualify to come here, not just from conflict regions, and irrespective of whether they needed international protection. That would risk reducing our capacity to assist the most vulnerable refugees.

We must also consider community and local authority capacity. I understand that this is a complex and emotive issue, which is why we are listening carefully to calls to extend family reunion and closely following the passage of the private Members' Bills on this subject and will continue our productive discussions with key partners. It is particularly important to me that hon. Members are reassured that we are taking this matter seriously, and I hope that I have gone some way in ensuring that."

- 5.44** "For these reasons", the Immigration Minister invited Mr McDonald to withdraw new clause 51, which he agreed to do.
- 5.45** The Immigration and Social Security Co-ordination (EU Withdrawal) Bill did not complete its passage through Parliament before the end of the 2017-19 Parliamentary session, therefore it could make no further progress.

Stakeholders

- 5.46** The Families Together Coalition comprises organisations,³⁰ many of which provide frontline services for refugees, that have come together to support the extension of the UK's family reunion rules. The Coalition has called for:
- child refugees in the UK to have the right to sponsor their close family so they can rebuild their lives together and help them integrate in their new community
 - the definition of who qualifies as family to be expanded so that young people who have turned 18 and elderly parents can live in safety with their families in the UK
 - the reintroduction of legal aid so refugees who have lost everything have the support they need to afford and navigate the complicated process of being reunited with their families

³⁰ According to the written evidence submitted in February 2019 to the public bill committee of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2017-19, the members of the Families Together Coalition are: All African Women's Network, Amnesty International UK, Asylum Matters, British Red Cross, Care4Calais, CARE International UK, The Children's Society, City of Sanctuary, Every Child Protected Against Trafficking (ECPAT UK), Greater Manchester Immigration Aid Unit (GMIAU), Helen Bamber Foundation, Help Refugees, Jewish Council for Racial Equality (JCORE), Lewisham Refugee and Migrant Network (LRMN), Migrants Resource Centre, Oxfam UK, Refugee Action, Refugee Council, Refugee Rights Europe, Safe Passage, Scottish Refugee Council, Solidarity with Refugees, SOS Children's Villages UK, STAR (Student Action for Refugees), The Tavistock and Portman NHS Foundation Trust, UNHCR, Welsh Refugee Council, Young Roots.

<https://publications.parliament.uk/pa/cm201719/cmpublic/Immigration/memo/ISSB12.pdf>

- 5.47** In June 2019, ICIBI published a ‘call for evidence’ seeking contributions from anyone with knowledge or experience of the family reunion process addressing whether stakeholders found Home Office family reunion policy and guidance, including eligibility criteria, clear, accessible, relevant to the circumstances of those looking to be reunited, applied consistently and with understanding and compassion; whether the process of applying was simple to follow; whether sponsors or applicants were given an opportunity to supply further evidence or attend an interview; how long it took to receive a decision; whether decisions were explained clearly; how the Home Office responded to requests for clarification, information, complaints and legal challenges; and, what particular difficulties family reunion applicants applying from Africa faced, whether applying through Pretoria or via another route.
- 5.48** The responses received to the ‘call for evidence’ are reflected throughout this report. Meanwhile, stakeholders also wrote and spoke to inspectors about their concerns regarding current family reunion policy. They argued for changes to the definition of family member along similar lines to the two Private Members’ Bills and also for the reintroduction of legal aid for these applications. They also argued for greater flexibility within the guidance to address safeguarding and welfare needs; provision of funding for DNA tests; and, extending the validity of the entry clearance visa for those granted refugee family reunion to more than 30 days.
- 5.49** Stakeholders were also concerned about the Dublin III Regulations post-Brexit, particularly for unaccompanied asylum-seeking children who had the right to have their claim transferred to another EU State where they had a parent or other close relative, which in practice served as a mechanism for reuniting children with their families within Europe. Without Dublin III, these children will have to rely on the UK’s Immigration Rules, and those seeking to be reunited with extended family members in the UK will have to argue and provide documentary evidence to prove their case is exceptional.

6. Inspection findings: Caseworker guidance

ICIBI's 'Expectations'

6.1 In November 2018, ICIBI published its 'Expectations' in relation to all asylum, immigration, nationality and customs functions. The first of these is that:

“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)”

6.2 With this 'Expectation' in mind, inspectors reviewed the Home Office's published family reunion guidance, both from the perspective of Home Office caseworkers, for whom it was written, and of family reunion sponsors, applicants and stakeholders seeking to understand how the process should work.

Home Office Guidance

Updates 2012-2019

6.3 The 2016 inspection of family reunion applications found that the Home Office had not updated published guidance on family reunion since August 2012. In July 2016, following receipt of the 2016 inspection report but before its publication, the Home Office issued 'Family reunion: for refugees and those with humanitarian protection'.³¹ This is accessible via the GOV.UK website, as well as via the Home Office intranet (Horizon) for Home Office users.

6.4 The guidance has been updated twice since 2016, most recently on 19 March 2019 “to make clear that officials must not require DNA evidence, but applicants can continue to choose to provide such evidence voluntarily”.

Eligibility

6.5 'Version 3' of the guidance runs to 31 pages. It begins by outlining who is eligible to apply for family reunion. Eligibility is not specified in the European Council Directive 2003/86/EC “on the

³¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/787275/family-reunion-guidance-v3.0ext.pdf

right to family reunification”. Consequently, member states have adopted different definitions of ‘family’, including different cut-off ages for minors (ranging from 18 to 21).³²

6.6 The Home Office guidance explains that:

“The policy is intended to allow those currently recognised as refugees or granted humanitarian protection in the UK to sponsor pre-flight, immediate family members to join them here. Immediate family members are defined in the Immigration Rules as a spouse or partner and children under the age of 18, who formed part of the family unit before their refugee sponsor fled their country of origin or former habitual residence to claim asylum in the UK.”

6.7 It also explains that individuals who have “refugee status or humanitarian protection, including those resettled under the Gateway Protection Programme, Mandate Refugee Programme or the Syrian Vulnerable Persons Resettlement (VPR) scheme” may act as “sponsor” for a family reunion applicant.

6.8 A grant of family reunion leave does not confer refugee status on the applicant(s) and, if successful, they may not act as sponsor for further family reunion applications. Their leave is tied to that of their sponsor and therefore the period of leave cannot extend beyond the expiry date of their sponsor’s grant of leave. Any conditions are also normally in line with the sponsor, which means that most successful applicants are given recourse to public funds. However, where leave is granted outside the Rules recourse to public funds is at the discretion of the caseworker.

6.9 Much of the remainder of the guidance elaborates on who is eligible and ineligible to apply for family reunion and to act as a sponsor. Definitions and further information on how to consider family reunion applications is provided via hyperlinks³³ to the relevant text within the guidance document itself, to referenced parts and paragraphs of the Immigration Rules, and to other guidance documents.

6.10 The guidance recognises that “families can become fragmented because of the nature of conflict and persecution and the speed and manner in which those seeking asylum are often forced to flee their country of origin”. The intention is that “applications are properly considered in a timely and sensitive manner on an individual, objective and impartial basis, acknowledging the vulnerable situation that applicants (particularly women and children) may find themselves in and where possible, expediting claims without unnecessary delay”. It is also the intention that abuse of the process through fraudulent applications is prevented and that applicants are subject to the same security checks as asylum seekers.

6.11 The guidance also recognises that while an applicant may not be eligible for a family reunion visa, they may qualify for an alternative route and describes such routes for: ‘post-flight spouse or partner’; ‘children over the age of 18’; ‘adult dependent relatives’; ‘extended family members (parent, grandparent, brother or sister)’; ‘adopted children and de facto adopted children’.

³² https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/family-reunification_en; <https://www.oecd.org/els/mig/41563157.pdf>

³³ Inspectors tested the hyperlinks in October and November 2019 and found that the links to ‘Immigration Directorate Instruction on Family Migration: 5 year routes’, and ‘Immigration Directorate Instruction on Family Migration: 10-year routes’ did not work.

Child sponsors

- 6.12** The guidance is clear that family reunion sponsors must be 18 years old. Under the heading ‘Ineligible sponsors for the purpose of family reunion’ it lists:
- “a minor (under 18 years of age) with leave in any category, including refugee status – if a minor holds refugee status, they cannot sponsor relatives under the rules (even parents)”
- 6.13** At the time of this inspection, the UK was the only EU Member State that did not allow a child refugee to sponsor family members for family reunion.³⁴
- 6.14** Stakeholders have asserted that the UK is in breach of its national and international legal obligations, including the family reunification provisions of the UN Convention on the Rights of the Child (UNCRC).³⁵ Recent research by stakeholders highlighted the heightened vulnerability and significant trauma children suffered when separated from their families and left in the care of the State.
- 6.15** Home Office policy staff told inspectors that most major decisions about family reunion policy were made by ministers and “sometimes decisions taken are inevitably political. That is out of our control ultimately.” The Home Office did not share any advice that it had put to ministers regarding policy options for family reunion. Inspectors asked for the rationale for excluding children from sponsoring family reunion applications. The Home Office’s response echoed what ministers had previously told Parliament:
- “If children were allowed to sponsor parents, this would risk creating incentives for more children to be encouraged, or even forced, to leave their family and risk hazardous journeys to the UK. This plays into the hands of criminal gangs who exploit vulnerable people and goes against our safeguarding responsibilities. This position supports our commitment to protecting vulnerable individuals.”³⁶
- 6.16** The Home Office did not provide any supporting evidence for this assessment. In 2016, the Upper Tier Tribunal had found that it had none.³⁷ However, in February 2018 the Home Office had submitted an “Ad-Hoc Query on evidence on the impact that policy changes to refugee family reunion could have on asylum intake and the number of family reunion applications received to understand if changing the position on child sponsors” to the European Migration Network.³⁸ Having received the latter’s response, the Home Office told inspectors that “it was difficult to disaggregate the relative impact of varying pull factors and it was difficult to directly compare other EU country policies on family reunion – other countries vary in their criteria and those who are eligible for refugee family reunion”.
- 6.17** Home Office staff told inspectors that child sponsors was a “ministerial red line”. However, it was being considered by the Home Office’s Digital and Data team as part of broader piece of work to assess the “pull factors” that arise when changes are made to asylum policy.

34 <https://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/family-reunification>

35 See Article 10, UNCRC

36 <https://www.theyworkforyou.com/wrans/?id=2019-06-24.268562.h&s=family+reunion#g268562.r0>

37 AT and another (Article 8 ECHR – Child Refugee – Family Reunification) Eritrea [2016] UKUT 00227 (IAC)

38 European Migration Network (EMN) is an EU network of migration and asylum experts who work together to provide objective, comparable policy-relevant information. The EMN was legally established under EU Council Decision 2008/381/EC, as amended and is co-ordinated by the European Commission (Directorate-General for Migration and Home Affairs).

‘Exceptional circumstances’ or ‘compassionate factors’

6.18 Based on the low numbers of referrals made to the Referred Cases Unit (RCU) in 2014 and 2015³⁹ and the sample of 181 cases⁴⁰ from Amman, Istanbul and Pretoria that inspectors examined, the 2016 inspection questioned whether caseworkers were giving sufficient consideration to “exceptional circumstances or compassionate factors” and recommended that the Home Office should:

“review, issue clear guidance, and ensure consistent application by decision makers of ‘exceptional circumstances’ or ‘compassionate factors’, in particular (but not limited to) when considering applications from spouses under the age of 18.”

6.19 The guidance issued in 2016 addressed this recommendation in part. It dealt clearly with the requirement for caseworkers to consider exceptional circumstances or compassionate factors:

“Where a family reunion application does not meet the requirements of the Immigration Rules, caseworkers must consider whether there are any exceptional circumstances or compassionate factors which may justify a grant of leave outside the Immigration Rules.”

6.20 In Pretoria, this was reinforced in 2017 by an email that added “in **every** case”⁴¹ between “must” and “consider”.

6.21 However, the 2016 guidance was less clear about what constituted exceptional circumstances or compassionate factors. Hyperlinks within the guidance to “compassionate factors” link to a section entitled “Exceptional circumstances or compassionate factors”, which states:

“Compassionate factors are, broadly speaking, exceptional circumstances, which might mean that a refusal of leave to remain would result in unjustifiably harsh consequences for the applicant or their family, but not constitute a breach of Article 8.”

6.22 Noting that it is for the applicant to demonstrate that exceptional circumstances and compassionate factors apply in their case, the guidance is caveated:

“Entry clearance or a grant of leave outside the Immigration Rules is likely to be appropriate only rarely and consideration should be given to interviewing both the applicant and sponsor where further information is needed to make an informed decision.”

6.23 Some examples are listed that “may lead to a grant of leave outside the rules” where an applicant is an unmarried or same-sex partner or a child over 18. For the latter, the guidance states that all of the following must apply:

- “their immediate family, including siblings under 18 qualify for family reunion and intend to travel, or have already travelled, to the UK
- they would be left alone in a conflict zone or dangerous situation
- they are dependent on immediate family in the country of origin and are not leading an independent life

³⁹ Entry Clearance Officers (ECOs) are required to consider referring visa applications that fall to be refused for failing to meet the requirements of the Immigration Rules to the Referred Cases Unit (RCU) for consideration of granting Leave Outside the Rules (LOTR) where there are “compelling, compassionate or exceptional circumstances”. ‘OPI 797: Referring for authorisation of Leave Outside the Rules’, dated 9 November 2018, reminds ECOs of this requirement and attaches a revised referral form, noting that: “With two recent inspections of Family Reunion by the Immigration Chief Inspector of Borders and Immigration, along with other scrutiny including of visa fee waivers, we need to improve the way the referrals to RCU are made and recorded so that we can respond more quickly to data requests and with more detailed and accurate information.”

⁴⁰ The 181 applications were decided between 1 July and 31 December 2015.

⁴¹ **BOLD** and underlining as in the original email.

- there are no other relatives to turn to and would therefore have no means of support and would likely become destitute on their own”

6.24 The section provides hyperlinks to “further guidance on considering exceptional circumstances or compassionate factors, and how to set this consideration out in any decision letter”. When tested by inspectors, these links, to ‘Immigration Directorate Instruction on Family Migration: 5 year routes’ and ‘Immigration Directorate Instruction on Family Migration: 10 year routes’, did not work.

6.25 Meanwhile, the hyperlinks within the other sections of the family reunion guidance to ‘family exceptional circumstances guidance’ opened GOV.UK at a landing page entitled ‘Chapter 08: appendix FM family members (immigration staff guidance)’ with the explanation “This collection contains immigration staff guidance on dealing with family applications made after 9 July 2012”.

6.26 None of the seven documents displayed on the landing page dealt with “family exceptional circumstances”. However, one of the hyperlinks listed under “Related content” was for “Family of people settled or coming to settle (immigration staff guidance)” and this opened to a further list of documents, which included “Family life (as a partner or parent), private life and exceptional circumstances”.

6.27 ‘Family Policy: Family life (as a partner or parent), private life and exceptional circumstances’ was first published on 25 July 2019. Version 3 was published on 23 September 2019.⁴² Pages 66 to 83 (of 93) deal with ‘Article 8 exceptional circumstances’ as they apply to entry clearance and leave to remain applications, and refer to relevant caselaw and to the relevant parts of Appendix FM of the Immigration Rules. Under the heading ‘Definitions’, it states:

“‘Exceptional circumstances’ means circumstances which could or would render refusal of entry clearance or limited leave to remain a breach of ECHR Article 8 (the right to respect for private and family life), because refusal could or would result in unjustifiably harsh consequences for the applicant, their partner or a relevant child, or would result in unjustifiably harsh consequences for another family member whose Article 8 rights it is evident from the application would be affected by a refusal.

‘Exceptional’ does not mean ‘unusual’ or ‘unique’. Whilst all cases are to some extent unique, those unique factors do not generally render them exceptional. For example, a case is not exceptional just because the criteria set out in the Immigration Rules have been missed by a small margin.

Instead, ‘exceptional’ means circumstances in which refusal of the application could or would result in unjustifiably harsh consequences for the individual or their family such that refusal would not be proportionate under Article 8.

‘Unjustifiably harsh consequences’ are ones which involve a harsh outcome(s) for the applicant or their family which is not justified by the public interest, including in maintaining effective immigration controls, preventing burdens on the taxpayer, promoting integration and protecting the public and the rights and freedoms of others.”

⁴² <https://www.gov.uk/government/publications/family-life-as-a-partner-or-parent-private-life-and-exceptional-circumstance>

- 6.28** The guidance offers examples of circumstances in which “unjustifiably harsh consequences” are not likely to arise. These “include:
- Lack of knowledge of a language spoken in the country in which the family would be required to continue or resume living ...
 - Being separated from extended family members ...
 - A material change in the quality of life for the family in the country in which they would be required to continue or resume living ...”
- 6.29** Meanwhile, examples of circumstances in which “unjustifiably harsh consequences” might arise: “include
- The applicant and their partner have a child in the UK with serious mental health or learning difficulties ...
 - The applicant’s partner has a genuine and subsisting parental relationship with a child in the UK of a former relationship ...”
- 6.30** Accepting that each case must be judged on its individual merits and that it is not possible to itemise every exceptional circumstance and compassionate factor, it would be unrealistic to think that family reunion sponsors and applicants could understand from the available guidance what evidence they might need to provide to demonstrate that exceptional circumstances and compassionate factors apply in their case. Even if they were fluent in English, which most are not, the language is dense and often opaque. Stakeholders and others, such as legal representatives, who regularly support family reunion sponsors and applicants may, through practice, be better able to navigate and interpret the guidance, and also to apply any learning from refusal notices, but without any sense of certainty.
- 6.31** However, since the guidance was written for caseworkers the first test was whether they found it clear and helpful when considering whether exceptional circumstances or compassionate factors arose in a particular family reunion case. Staff in the Pretoria DMC told inspectors that they did. Meanwhile, staff in Asylum Operations (Sheffield) confirmed to inspectors that they understood when an individual might qualify for leave outside the Rules and were comfortable about recommending that this should be granted.
- 6.32** Judging by the numbers of cases referred to RCU for consideration, the guidance achieved the policy intention that grants of leave outside the rules should be made “only rarely”. According to Home Office data, between April and December 2018, Pretoria DMC made just seven referrals (five of which were approved by RCU and two applications were discontinued), and between January and May 2019 it made a further seven referrals (all of which were approved by RCU).
- 6.33** Over the same periods, Asylum Operations (Sheffield) made 23 and 82 referrals, of which 19 and 81 were approved, suggesting that asylum caseworkers have a different (and, from the RCU approval rates, more appropriate) understanding of exceptional circumstances and compassionate factors than ECOs.

Interviews of sponsors and applicants

6.34 The 2016 inspection report had recommended that the Home Office should:

“Ensure that interviewing of family reunion applicants and/or sponsors is a practicable option for visa sections by improving access to interpreters, and review and provide guidance regarding the use of interviews to ensure best practice is consistently applied.”

6.35 The Home Office accepted this recommendation, referring to its plans to consolidate family reunion decision-making into one UK-based team, that would have access to a central interpretation capability that was being established.⁴³ It also noted that the July 2016 guidance included “best practice” for interviews. The guidance contained seven references to “interviews”. Three dealt with when an interview should be considered: if looking to grant leave outside the Rules; if in any doubt about a child’s age (i.e. that they may be over 18); and, if not satisfied with the evidence (having already requested further evidence). Only one reference addressed how an interview should be conducted:

“During an interview caseworkers must ask appropriate questions in a sensitive manner to carefully test the evidence and put any discrepancies to the applicant or the sponsor.”

6.36 The Home Office told inspectors that between 2016 and 30 September 2019 the Pretoria DMC received 12,812 family reunion applications. During this time, it conducted 72 interviews. In 2016 and 2017, there were only seven interviews in total. This increased to 37 in 2018 (from 3,850 applications received, which is less than 1%) and 28 in 2019 to 30 September (from 2,095 applications, which is 1.34%).

6.37 Meanwhile, between April 2018 and 30 September 2019, Asylum Operations (Sheffield) received 5,348 applications and conducted 37 interviews (0.69%). The data provided to inspectors did not differentiate between sponsor and applicant interviews, but inspectors understood from discussions with staff that the former were more common as they were easier to organise and language was less of an issue.

Spouses under 18 years of age

6.38 In its formal response to the 2016 inspection, the Home Office acknowledged that the guidance did not address the issue of applications from spouses under the age of 18 as recommended and wrote: “Guidance on how to consider applications from spouses that are under 18 is currently being reviewed and will be published later in the year [2016]”.

6.39 However, in September 2018, in response to the reinspection of family reunion cases received at the Amman DMC, the Home Office wrote:

“The ICIBI has highlighted his concerns over the assessment and refusals of Spouses who are under the age of 18. We accept a marriage or civil partnership as lawful provided it is undertaken in accordance with the laws of the country in which it took place, and provided there is nothing in either of the couple’s country of domicile to prevent it being acceptable in UK law. Where a marriage or civil partnership is contracted between people where one or both are under the age of 18, we may accept it is a valid marriage or civil partnership, but do not accept it for the purpose of UK immigration. Where an application for entry to the UK is received from a person, who is a spouse or civil partner who is under 18, the application will be refused under the Family Reunion Immigration Rules. Consideration

⁴³ ICIBI began a separate inspection of the Home Office’s use of interpreters in May 2019. This will report in early 2020.

will be given to whether there are exceptional circumstances that warrant a grant of Leave Outside of the Immigration Rules. Any grant of leave for a child who is in this situation, would be as a child and not as a spouse or civil partner and processed in line with the duty under section 55 to consider the welfare and best interest of a child. The Family Reunion guidance covers exceptional circumstances and, as outlined below,⁴⁴ we are in the process of reviewing the guidance as part of the wider approach to Family Reunion, and the wider Asylum and Resettlement Strategy.”

- 6.40** This clarified the Home Office’s position with regard to family reunion applications from spouses aged under 18: they remain ineligible, even where the Home Office accepts that there is evidence of a valid marriage. However, it was unclear from this response how a grant of leave outside the Rules “as a child and not a spouse”, and the consideration of “section 55” duties, would work in practice.
- 6.41** The Home Office was not able to say how many under 18 spouses refused family reunion had subsequently applied for entry via another route as the way that the data was recorded did not link applications.

DNA evidence

- 6.42** In June 2014, the Home Office decided to stop commissioning and funding DNA tests for family reunion applicants, looking to place the onus on the applicant and to bring family reunion applications into line with other application types.

- 6.43** The 2016 inspection found that:

“Prior to June 2014, ECOs were able to commission DNA tests and did so routinely for applications, including minors, that did not provide sufficient documentary evidence in support of the claimed relationship. Testing was often used with Somali and Eritrean nationals, for example. Since 2013, refusal rates for Somali and Eritrean applicants have doubled, and while other factors may have played a part, it is reasonable to assume that the change to DNA testing has been a major cause.”

- 6.44** The inspection also found that the Home Office had failed to communicate the change and its consequences to applicants:

“Although reference to DNA testing was removed from guidance for (settlement provisions) children, the Home Office had not updated published guidance for family reunion applicants, issued in August 2012 and still available on the gov.uk website, which informs applicants that it will commission DNA testing where a relationship as claimed has not been established. Meanwhile, the Guide to Supporting Documents did not refer to DNA evidence. The Home Office’s rationale for this omission was that the Immigration Rules do not require applicants to provide DNA evidence, which is at best unhelpful, as well as being inconsistent as these rules do not require other documents that are listed.”

⁴⁴ Under ‘Policy and guidance’, the 2018 response stated that: “The Home Office is in the process of reviewing the approach to Family Reunion as part of the wider Asylum and Resettlement Strategy. As part of this review, consideration is being given to the recent debates on Refugee Family Reunion in the context of two Private Members’ Bills (Baroness Hamwee’s in the Lords, and Angus MacNeil’s in the Commons). The passage of these Bills will be followed closely whilst productive discussions with key Non-Governmental Organisations (NGOs) in this area continue. Family Reunion policy development remains a high priority and the guidance will be updated once a firm position has been reached.”

6.45 The report recommended that the Home Office should:

“Review its approach to DNA evidence in family reunion cases, including:

- funding for commissioned DNA testing where the Home Office is unable to verify documents provided by the applicant;
- deferral rather than refusal where the absence of DNA evidence is the only barrier to issuing entry clearance; and
- update guidance so that it accurately reflects the approach and applicants are clear in what circumstances they should provide DNA testing results with their application.”

6.46 The Home Office accepted the recommendation and committed to review the policy, with an outcome expected by the end of 2016. In the follow-up inspection report of 2017, which focused on Istanbul, ICIBI found that no progress had been made on this recommendation. In 2018, ICIBI looked at the family reunion process undertaken in Amman and, in relation to the DNA recommendation, concluded that: “The re-inspection was not provided with any evidence that this issue had been reviewed in any meaningful sense. Therefore, Recommendation 3 remains open”.

6.47 In September 2018, responding to the Amman reinspection, the Home Office wrote:

“Those applying for Family Reunion are not required to provide DNA evidence to prove their family relationship and can rely on other evidence to support their application. Home Office guidance on considering Family Reunion applications (Family Reunion: for refugees and those with humanitarian protection) highlights the challenges that applicants may face in obtaining documents to support their application and makes clear the types of evidence that can be provided.

The Home Office undertook to review its approach to funding DNA tests in Family Reunion applications following the Chief Inspector’s recommendations in his initial 2016 report. A wider review of our approach to DNA testing across all immigration routes was announced by the Immigration Minister on 3 July and we will update the ICIBI on its findings during our next quarterly meeting.”

6.48 In October 2018, the Home Secretary commissioned Darra Singh OBE⁴⁵ to undertake an independent review of the Home Office’s response to the discovery that decision makers had been mandating of DNA evidence for immigration purposes.⁴⁶ Following a Parliamentary Question about this, an internal Home Office inquiry⁴⁷ found it had been happening for certain cohorts of applicants,⁴⁸ despite the fact that there was no provision in the Immigration Rules or other legislation for the Secretary of State to mandate it and the express exclusion of DNA collection in the provisions to collect biometric information for registration of an immigration application.⁴⁹

45 UK and Ireland government and public sector lead for EY. Formerly, Second Permanent Secretary at the Department for Work and Pensions, Chief Executive of the London Borough of Ealing, and Chair of the Riots Communities and Victims Panel that was set up to examine why the August 2011 riots took place.

46 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807453/Independent_review_of_the_Home_Office_response_to_the_mandating_of_DNA_evidence.pdf

47 The findings of this inquiry were laid before Parliament on 25 October 2018 and the Home Secretary made a statement apologising for the unacceptable mandating of DNA evidence and announced a new taskforce to assist and reimburse anyone affected and an independent review to assure the work of the internal inquiry.

48 The three cohorts identified by the internal inquiry were: adult dependent relatives of Gurkhas (discharged before 1 July 1997), Afghan nationals formerly employed by the UK Government, and Operation Fugal (which Darra Singh’s report noted started in April 2016 to address patterns of fraud in some specific family and human rights applications for immigration purposes).

49 Made in the 2014 amendments to section 126 of the Nationality, Immigration and Asylum Act 2002.

- 6.49** Darra Singh’s report,⁵⁰ dated February 2019, noted that the legal position allowed for DNA-based evidence to be used within immigration decision-making when it was obtained on a voluntary basis, but that the Home Office could draw no conclusions for the non-provision of DNA-based evidence. However, it was also not bound to accept the existence of a familial relationship without being satisfied that it was genuine.
- 6.50** Amongst the report’s conclusions was that while the legal position of the Home Office in relation to DNA was reflected in new, overarching guidance,⁵¹ three “central” guidance documents needed updating. These included ‘Family reunion: for refugees and those with humanitarian protection’, particularly:
- “reference that the onus is on the applicant to prove familial relationships and as part of this ‘they may wish to submit a DNA test’ ... We believe these documents remain ambiguous and open to interpretation. They have not been updated to clearly state that DNA evidence can only be asked for on a voluntary basis. They also do not link to the new DNA policy guidance, which provides standard wording for decision makers to invite DNA evidence voluntarily.”
- 6.51** This formed the basis for the 19 March 2019 update to the guidance, which now states:
- “It is the responsibility of the applicant and their sponsor to provide sufficient evidence to prove their relationship and satisfy the caseworker that they are related as claimed. Although caseworkers must not require DNA evidence, applicants can choose to volunteer DNA evidence from an accredited testing laboratory either proactively or in response to an invitation to submit further relevant evidence, which may include DNA evidence. Where applicants choose not to volunteer DNA evidence, no negative inferences can be drawn from this. Further information is available in the Home Office DNA policy guidance available on gov.uk at: <https://www.gov.uk/government/publications/dna-policy>.”
- 6.52** The revised guidance has addressed parts of the ICIBI’s 2016 recommendations relating to DNA tests, but in clarifying that provision of DNA evidence is voluntary and the responsibility of the applicant the Home Office is failing to help applicants understand when it would assist their application and, crucially, has ducked the question of funding.
- 6.53** The Home Office did not record when DNA evidence was provided with a family reunion application in a way that was searchable, so no data was available for the overall extent of its use. For the current inspection, inspectors examined 176 family reunion applications where a decision to grant or refuse had been made between 1 July 2018 and 30 June 2019. Of these, 118 were granted and 58 refused. DNA evidence had been provided in 30 (25.4%) of the successful applications and in 7 (12.5%) of the failed ones. From the case records, it was unclear whether the successful applications would have succeeded without the DNA evidence. The failed applications were not because the DNA evidence was rejected but on other grounds.
- 6.54** Eight of the stakeholder submissions to this inspection highlighted that the Home Office’s move away from the commissioning and funding DNA tests had had a negative impact on the family reunion process, particularly for those applicants whose “evidence is limited because of the way they were forced to flee, ongoing war and conflict or because the certificates and documents we take for granted in the UK are simply not available or commonly used in their local communities”.

⁵⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807453/Independent_review_of_the_Home_Office_response_to_the_mandating_of_DNA_evidence.pdf

⁵¹ This guidance makes no reference to the family reunion process.

6.55 The cost of tests was an obstacle to more applicants providing DNA evidence. One stakeholder commented:

“DNA tests cost at least £400 for a sponsor and the cost rises with each additional DNA test. The [NGO] has an agreement with a DNA test provider whereby they are able to get a 40% discount on the cost of testing for their clients, but for most clients this discounted price is still a considerable element of expenditure at a time of extreme financial vulnerability. Without DNA tests, it is routine for applications to be refused, which necessitates either re-submission or appeal of the case.

This leaves individuals facing the choice of either spending the money up front in the hope of securing a quicker and positive outcome, or taking a gamble on the fact that the documentary evidence submitted will be sufficient. The latter course of action of course risks delay in the arrival of their family, and possibly having to pay a solicitor an additional fee for a re-submission of their case.”

30-day visa validity

6.56 Under ‘Family reunion application process’, the family reunion guidance states:

“Successful applicants should be aware that family reunion entry clearance visas are only valid for 30 days and they must travel to the UK within this 30-day validity period or the visa will expire.”

6.57 The guidance continues:

“If an applicant needs longer to make travel preparations, they should make clear on the application form the earliest date they intend to travel to the UK so that the visa can be issued to start on that day. Applicants should give themselves enough time to make travel arrangements when completing the application form.”

6.58 However, the online application form merely asks: “Date you plan to arrive in the UK”. Stakeholders told inspectors that quite apart from whether they understood its relevance to the 30-day visa deadline, given their precarious circumstances many applicants had difficulty answering this question with any confidence. Meanwhile, once a visa had been issued, applicants faced significant challenges in being ready to travel within 30 days. These included:

- delays by VACs in alerting applicants to the fact a visa had been issued, which ate into the 30 days
- difficulties in raising the funds for travel within the time
- arranging the sale of any assets
- arranging care for family members remaining behind
- being allowed to leave their host country (a particular issue in Ethiopia where an exit permit was needed, and in Turkey where lack of recognition of a Uniform Format Form (UFF)⁵² caused delays at the airport)

⁵² According to GOV.UK, “The UFF is a document on which a visa can be placed when a travel document is not recognised as a valid travel document by HMG. It is used by all EU Member States. ... The UFF does not confer nationality, nor does it confirm identity. A UFF ... may be witnessed by an officer responsible for signing entry clearances. The ECO should not issue a UFF unless they intend to endorse a visa on it.”

- misalignment of dates in visas issued to members of the same family, meaning parents may have to travel without their children (inspectors met one family that had been faced with the possibility of having to leave a nine month old baby alone in East Africa, as the visa dates for the baby were not aligned with those of the mother and her other children)
- difficulties for the UK-based sponsor in securing appropriate housing in time for the family's arrival

6.59 Inspectors sought an explanation from the Home Office for the 30-day visa. They were told it was based on the UK's compliance with EC Regulation 1030/2002, as amended by EC Regulation 380/2008,⁵³ which required the Home Office to issue a Biometric Residence Permit (BRP) rather than a vignette visa to any person who is subject to control and granted leave of more than six months. Successful family reunion applicants therefore received a 30-day vignette to facilitate travel, with a BRP automatically generated at the point of granting family reunion and available for collection on arrival in the UK.

6.60 This interpretation of the EU Regulations and UK legislation was challenged by stakeholders, who argued that the only requirement was for the visa to expire before the sponsor's grant of leave ends. There was nothing to specify 30 days. It was also pointed out that this was inconsistent with clearance to enter the UK via the Vulnerable Persons Resettlement Scheme (VPRS), where those being resettled were given a Leave Outside the Rules entry visa valid for six months and a request for a BRP was made on arrival. According to the Home Office, VPRS refugees normally receive their BRP within three days of arrival.

6.61 Despite the BRP being automatically generated for family reunion applicants at the point their visa is issued, inspectors were told by stakeholders of delays in providing a BRP and met applicants for whom this had been the case and had difficulties accessing benefits and services to which they were entitled, such as housing, Universal Credit and the NHS care.

Legal aid

6.62 Since 2012, family reunion sponsors and applicants have no recourse to legal aid and Home Office guidance is therefore silent on this matter. Stakeholders concerned about the accessibility of the family reunion process have argued strongly that legal aid should be re-instated to support applications, and this was included in the two Private Members' Bills that fell when the 2017-19 Parliamentary session ended.

6.63 In re-designing the online form for applying for family reunion the Home Office was mindful of the need for the process to be simple and straightforward, not least as the Home Office had argued that this, together with clear guidance, justified the ongoing exclusion of family reunion from the scope of legal aid.

6.64 In July 2019, the Home Office referred inspectors to the pending Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid for Separated Children) (Miscellaneous Amendments) Order 2019. The Explanatory Memorandum, noted:

“Separated migrant children will also be eligible for civil legal services where an application for entry clearance, leave to enter or leave to remain is made under the Immigration Rules by another person (including family members and extended family members) and granted either under the Immigration Rules or outside the Immigration Rules, on the basis of

53 Transposed into domestic law via the Immigration (Biometric Registration) (Amendment) Regulations 2015, the Immigration (Biometric Registration) (Amendment) (No.2) Regulations 2015, and the Immigration (Leave to Enter and Remain) (Amendment) Order 2015).

exceptional circumstances (under Article 8 of the ECHR) or compassionate and compelling circumstances. There are no such plans to make legal aid available to adult family reunion sponsors or applicants.”

- 6.65** The Statutory Instrument⁵⁴ came into force on 25 October 2019, and was welcomed by stakeholders, including the Children’s Society, which had campaigned for the change and had brought successful Judicial Review proceedings against the government on the issue.
- 6.66** In the 176 family reunion applications examined for this inspection, inspectors looked to see whether applications made with NGO support or legal representation were more successful than those made without. The percentages of successful and failed applications with a legal representative were almost identical (21% and 22% respectively), though the sample was not large enough to be statistically significant. However, there were differences in the quality of applications, for example, the inclusion of a note to cover any gaps in timeline or missing evidence.
- 6.67** Research by stakeholders showed that the majority of sponsors of a family reunion application required legal assistance, particularly with non-straightforward cases, such as adult dependent children. One NGO commented estimated that 60 to 70% of applications were successful at the first attempt, but of those refused over 30% are successful when they reapply or raise a legal challenge.

54 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid for Separated Children) (Miscellaneous Amendments) Order 2019 SI No 1396

7. Inspection findings: Applying for family reunion

ICIBI ‘Expectations’

7.1 ICIBI’s second ‘Expectation’ is that:

“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)”

7.2 Inspectors reviewed the family reunion application process with this in mind, principally from the perspective of applicants and their sponsors.

The application process

Online applications – accessing the application form

7.3 Information for those looking to make or sponsor a family reunion application can be found on the GOV.UK website. A web search for “family reunion uk” produces the link to the relevant GOV.UK page,⁵⁵ entitled “Settlement: refugee or humanitarian protection”, where “Family reunion” is listed under “Contents”.

7.4 The “Family reunion” hyperlink opens a brief and simplified walkthrough of the process, written for sponsors, although it does not use that term. It explains who may qualify to have their “partner or child” “join or stay with” them in the UK, who is eligible to apply for family reunion and how to do so. It explains that the online application form cannot be used if applying from North Korea, for which there are links to separate guidance, and that applications made in the UK need to be made by letter to the UKVI Family Reunion Team and provides a postal address in Liverpool.⁵⁶

7.5 The “apply online” hyperlink opens a page that is generic for non-UK nationals wanting “to find and apply for other visas from outside the UK”. As such, it refers to requirements that are not relevant to family reunion applications: “You may also need to: pay for a visa fee online ... pay the health surcharge ... provide your passport”.⁵⁷

⁵⁵ <https://www.gov.uk/settlement-refugee-or-humanitarian-protection/family-reunion>

⁵⁶ The Immigration Rules allow for in-country family reunion applications. These are processed by the Settlement team in Liverpool. The numbers are small.

⁵⁷ The majority of family reunion applicants do not hold passports.

- 7.6** The “Start now” button opens the first of a series of pages asking applicants to select from a list of options of visa categories and subcategories (“Your family member is in the UK with refugee leave or with humanitarian protection”), and to state where they will enrol their biometrics.
- 7.7** Next, applicants must select the “Visa type” from a list, the first two options being “partner” or “child” of “someone in the UK with refugee leave or with humanitarian protection (family reunion)”, which are shown as “Free of charge” applications. The other two options are “other family member of someone in the UK with refugee leave or with humanitarian protection” and “child of a relative (who is not your parent) with limited leave to enter or remain in the UK as a refugee or humanitarian protection”, the fee for both is £388. Each option has a drop-down box “Find out if you are eligible to apply”.
- 7.8** As the last step before beginning to complete the application form itself, applicants must register an email address and create a password “so you can save your answers” and receive a unique link to enable logging back in to the application at a later point.

Designing a new online application form

- 7.9** In late 2018, the Home Office re-designed the online process for visa applications. The Design Team created “blocks” of questions that applied to some or all types of applicant and which could be combined to create different online “forms”. The “forms” were not designed for one visa type but for groups of visa types with common characteristics. Family reunion applications were grouped under “No fee/with biometrics form”, which the designers understood comprised “8,499+ users a year”.
- 7.10** According to the Design Team, the new online process is the “minimum viable product” (MVP),⁵⁸ which was what was achievable with a small budget and tight timeframe. With regard to family reunion applications, the team told inspectors that “the form is more generic than we would have liked but it was the only way we could get it moved onto the new platform in the time required”.
- 7.11** Government Design Principles⁵⁹ include “Start with user needs” and “Iterate. Then iterate again.” Inspectors found no evidence that the Home Office had attempted any meaningful consultation with family reunion applicants, sponsors or external stakeholders before starting the re-design of the application process, nor had it tested the new design on non-English speakers or family reunion applicants.
- 7.12** During the design process, Asylum Operations (Sheffield) had provided a list of improvements it would like to see, reflecting the views of the stakeholders with whom it was in contact. For example, it suggested making the form “more intuitive and steering applicants to the relevant routes, such as a fee waiver/LOTR”.
- 7.13** Meanwhile, Asylum Policy staff commented:

“... as it is quite a sensitive area at the moment we want to make sure the form is as user friendly as it can possibly be. Not least as we have said in public lines (and in response to debates in Parliament) that we will look to make the family reunion application form

⁵⁸ A minimum viable product is one with just enough core features for it to be deployed effectively, often to a subset of intended users. It is typically used to gather feedback and inform the development of products that more closely meet the needs of users or reach more users.

⁵⁹ See, <https://www.gov.uk/guidance/government-design-principles>

more palatable. It was one of the lines that we used to deflect the need for legal aid to complete it.”

7.14 A proposal was made by Asylum Operations (Sheffield) to remove the need for a paper appendix.⁶⁰ This was in line with stakeholders’ views. The Design Team responded:

“In regards to getting rid of the paper appendix and asking questions on the form, we’re unable to do that. The scope of our project (including funding and resource) does not cover creating bespoke questions for all of the routes. So currently, we are having to keep the paper appendix.”

7.15 In March 2019, the Design Team told inspectors that removing the paper appendix or making other improvements to the online form would require “a separate request with separate funding”.

The online application form

7.16 The online application form, which runs to nine or so pages when printed depending on what data the applicant enters, is a mixture of drop-down menus and free text boxes, with pop-up explanatory notes. The applicant can select the language the notes are displayed in from a drop-down list of 18 languages, plus English.

7.17 While the reason for most questions should be clear to applicants (name, nationality, date and place of birth, address, travel, security and criminal histories), some are less obvious (“What is the ownership status of your home?”) or may be difficult to answer for family reunion applicants (“Date you plan to arrive in the UK”).

7.18 Applicants are asked to “enter your name as found in your current passport or travel document”. There is the option: “I cannot enter my name using a current passport or travel document”. When selected, this displays the text: “If you do not have a passport or travel document use a biometric residence permit, immigration document or birth certificate. For recognised refugees, stateless persons or beneficiaries of humanitarian protection without these documents, enter the name by which the Home Office knows you.” This is potentially confusing for family reunion applicants. While many will not have a passport, nor will they be already known to the Home Office.

7.19 Applicants are asked about their status in their country of residence. If the applicant does not have temporary or permanent residence, they are required to: “Give as much information about your status in [country] as possible, including if: you are waiting for a decision on a visa, you are not required to have a visa to be in [country], you are not in [country] legally”. For applicants without legal status in their country of residence, these questions are likely to cause anxiety, particularly as no explanation is provided about why this information is required or how it might be used.

7.20 The generic screen, “information about your application” states: “Provide additional information about your application. You do not need to provide details that you have already provided in this application”. Applicants are directed to guidance relevant to their application type. For family reunion, the guidance states:

“Provide information about the person you are dependant (sic) on, such as: your relationship with them; their immigration status in the UK. If you are applying as a partner, you should also provide information about: when, where and how you first met your partner; your future plans with your partner in the UK. If you are applying as a child, you should also provide information about: your current circumstances in your country; your family situation prior to being separated

“You can also provide any additional information, including written evidence, you think is relevant to your application.

“You will be asked to supply documentary evidence to support these statements later in your application. If you cannot supply documentary evidence to support your statements, tell us why below.”

- 7.21** Applicants cannot proceed to the next screen without inputting text into the “additional information” box. The next screen “Additional information you need to provide” requires applicants to confirm they have downloaded and completed ‘Appendix 4 (VAF4A August 2018)’. This is the paper appendix that Asylum Operations (Sheffield) proposed should be incorporated into the online application form. It replicates many of the questions contained in the online form and, additionally, requests details (dates, locations, other residents) for every place the applicant has lived since birth.
- 7.22** The online application process then moves to the evidence section, where applicants have the option to tick that they hold documentary evidence confirming their identity and are invited to provide other evidence, though “this is not mandatory”. This “guidance” is potentially misleading, as without sufficient evidence the application will be refused.
- 7.23** Applicants are encouraged to
- “provide a copy of the bio data page from the passport or travel document of the person you are dependant (sic) upon (if you have it); proof of relationship between you and the person you are dependant upon; evidence of the current UK immigration status for the person you are dependant upon (if they are already in the UK).”
- The latter information is already held by the Home Office.
- 7.24** The Home Office cannot automatically link its records for a sponsor to an applicant, as the sponsor’s records are on CID and the applicant’s on Proviso, so by providing the bio data page and evidence of sponsor’s UK immigration status the applicant is reducing the administrative burden on the Home Office and ensuring that the sponsor is correctly identified, however this is not explained.
- 7.25** A drop-down link for those applying for family reunion provides examples of evidence such as “marriage certificates or traditional marriage ceremony documents ... family photographs ... communication records (telephone records, emails and letters for the period you have been apart, or social media messages) and any other evidence indicating the relationship is as claimed”. Details on how to submit this information via a VAC is also outlined, as well as the possible need for a certificate showing that the applicant does not have tuberculosis.
- 7.26** The form sets out the conditions to which the applicant’s leave will be subject, if they are successful. The applicant must declare that the application is authentic and indicate where they want their BRP card to be sent.

- 7.27** The Immigration Health Surcharge (IHS) page follows with the statement “You must pay your Immigration Health Surcharge (IHS) before you can complete your visa application. You will pay your IHS on another website, then return to this site to complete and pay for your application. If you are exempt, you will still need to get a reference number from the IHS website”. There is no information provided on this page for family reunion applicants to alert them to the fact they are exempt. Once applicants have gone through the IHS website, they are returned to their application, which now displays the statement “You must now pay for your application.” It is only when the applicant clicks “Continue” that they are notified that they have no fee to pay.
- 7.28** After submitting their online form, applicants are directed to download and complete the paper form, scan and upload any documents, and book an appointment at the VAC to provide their biometrics.

Supporting documents

- 7.29** With effect from 4 March 2019, all on-shored family reunion applications have been paperless. The VACs are responsible for linking biometric data and any supporting documents and submitting scanned copies electronically to the Home Office. The originals are returned to the applicant, with the VAC retaining the travel document, where there is one, to enable the entry clearance visa vignette to be affixed if the application is granted. However, most successful family reunion applicants will not have a passport and will be issued with a Unified Format Form (UFF) onto which the visa has been copied.
- 7.30** According to the Home Office, digitisation of the application process has reduced the time taken for decision makers to receive supporting documents, however a straightforward ‘before and after’ comparison is difficult given that decision-making has moved to Sheffield where previously any supporting documents would have been couriered to the nearest overseas DMC.
- 7.31** For applications made at the Khartoum VAC all of the documents are couriered to the Pretoria DMC. When Pretoria has made its decision all of the documents, plus the passport with the vignette visa affixed or the UFF, are couriered back to Khartoum.

Stakeholder views on the application form

- 7.32** Reflecting the experiences of their clients, stakeholders told inspectors that the online application form failed to recognise the reality for most family reunion applicants. The form was generic and inflexible, meaning that applicants were forced to falsify entries, for example by inserting zeros for “passport number” because they were otherwise unable to proceed to the next screen. And, were required to complete a separate form, with separate document uploads and separate VAC appointments.
- 7.33** Almost half of the submissions received from stakeholders highlighted problems with the new online form, including:
- a need for clearer signposting to the form, as their clients had found it difficult to access the form online via the GOV.UK website
 - the form was unnecessarily complicated and difficult to understand, especially for non-English speaking applicants

- the need to input erroneous data and incorrect information (such as a made-up passport number) in order to complete the application process – stakeholders would like the option of answering “None” to “Passport number”
- sections of the form were repetitive, increasing the risk of simple mistakes with far-reaching consequences
- irrelevant questions, for example, relating to employment
- a lack of clarity in places whether the information requested relates to the applicant or the sponsor
- no space to list the evidence submitted
- the requirement for a separate account for each member of a family group but with only one application window able to be open at a time, meaning evidence/information has to be entered again, with the risk of errors – more challenging when there is poor internet connectivity and access. This also means VAC appointments may not be assigned together and applications may not be considered concurrently, resulting in different visa validity dates.

7.34 Stakeholders also highlighted problems with the appointment booking system at the VACs, describing it as complicated, with free appointments not offered as standard.

“As the initial booking page automatically suggests priority appointments, without assistance a refugee could end up paying for an expensive priority appointment. ... [NGO] caseworkers have experienced a number of glitches with booking appointments on the new system, however there is no contact information provided for technical assistance. Applications have been delayed due to these technical issues.”

7.35 Asylum Operations staff (Sheffield) echoed some of the stakeholders’ concerns. They told inspectors that the process needed to be streamlined, for example, if the form requested the sponsor’s Home Office (asylum) reference number it would speed up the process, enabling them to link documents and access information more quickly.

7.36 Stakeholders also believed that communication by the Home Office about the changes to the application process had been poor, leading to confusion about the correct form to use. At the time of the inspection, there were two ways to apply for a visa – via ‘Visa4UK’ and via ‘Access UK’. UKVI was moving all applications to ‘Access UK’, but although ‘Access UK’ forms for family reunion applicants had been available since May 2019, ‘Visa4UK’ was not turned off for new applications until 27 June 2019, apart from in some countries (Australia, China, Cuba, New Zealand, Palestinian Occupied Territories, Sudan and the USA) that had not yet been digitised.

7.37 Stakeholders told inspectors that, as a precaution, some clients had submitted applications via both ‘Visas4UK’ and ‘Access UK’ while the ‘Visas4UK’ page remained live. One commented:

“It was due to an absence of available appointments on Visas4UK that led the [NGO] caseworkers to trial the use of the new system themselves. We are concerned that if [NGO] caseworkers find [it difficult to know] which system to use and the system itself difficult to navigate given their expertise, applicants attempting a family reunion application independently would have a limited chance of navigating the system successfully. It would be helpful if the Home Office was able to cascade information and guidance on the new system.”

8. Inspection findings: Home Office resources

ICIBI 'Expectations'

8.1 The third ICIBI 'Expectation' is that:

"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"

Resourcing family reunion casework

Who is best-equipped to decide?

8.2 Previous ICIBI inspection reports reflected on the appropriateness of Entry Clearance Officers (ECOs) deciding family reunion applications. While these are visa applications, the context is that of a protection claim. Based on what inspectors found in Amman in 2018, the Home Office appeared to have recognised that family reunion applications were inherently more complex than other categories of visa application. The Amman Decision Making Centre (DMC) had designated two of its most experienced ECOs to deal with all family reunion applications, with decisions reviewed by an Entry Clearance Manager (ECM). This was also intended to help with consistency.

8.3 Initially, as family reunion applications were on-shored from overseas DMCs they were directed to the Sheffield DMC, which handles applications for Points Based System (PBS) visas and for Settlement visas. However, in 2018, the decision was taken to transfer family reunion applications to Asylum Operations (Sheffield), where decision makers rotated between asylum claims and family reunion applications on a three-month cycle.

8.4 Since April 2019, all family reunion applications have been on-shored to Asylum Operations (Sheffield), with the exception of those received in Khartoum. The latter are directed to the Pretoria DMC, where they form a small part of the overall intake of visa applications. Up until June 2019, decision makers in Pretoria dealt with the full range of applications received by the DMC. However, on 1 July 2019, Pretoria designated a small team of ECOs to decide visa

applications received via the Khartoum VAC. This includes family reunion applications. The aim was to have a cohort of staff with expertise in the types of applications and documents received from Khartoum. With the creation of the 'Khartoum team', most ECOs at the Pretoria DMC ceased to have any involvement with family reunion applications.

Team structure – Pretoria

- 8.5** When inspectors visited Pretoria at the end of July 2019, the Khartoum team comprised four ECOs, all of whom were trained to consider family reunion applications. Two of the four worked on Khartoum applications at any given time, on rotation, with the other two dealing with visa applications from elsewhere. This was intended to ensure that they kept up their skills and knowledge of the wider work of the DMC. The Khartoum team was supported by two Entry Clearance Assistants (ECAs) and could be supplemented from the pool of family reunion trained ECOs should there be a surge in applications.
- 8.6** Management of the Khartoum team was provided by the 'Ops 1 ECM', also a rotational role. The 'Ops 1 ECM' monitored the Work in Progress (WIP) queue and prioritised any cases, including family reunion applications, that were approaching their Service Standard deadline.
- 8.7** When inspectors spoke to the Khartoum team at the end of July/early August it was still relatively new. Over its first six weeks of operation the balance of its work had been towards visit visas, which had a shorter Service Standard (15 days) than family reunion applications (60 days).

Team structure – Asylum Operations (Sheffield)

- 8.8** In July 2018, when Asylum Operations (Sheffield) first began considering family reunion applications, the team comprised four Executive Officer (EO) decision makers, with no funding for support staff. In November 2018, a temporary Senior Caseworker (T/SCW) post was created at Senior Executive Officer (SEO). The T/SCW shared responsibility for the family reunion operation with the SEO Operations Manager, with support from a Higher Executive Officer (HEO) Technical Specialist and an EO Workflow manager.
- 8.9** The SCW post was filled on a temporary basis by an HEO on temporary cover allowance (TCA) which was due to end at the beginning of October 2019.⁶¹ The Technical Specialist and Workflow Manager roles were originally offered on a three-month TCA basis, which had been rolled forward to October 2019. Inspectors were told that approval had been sought to fill the posts substantively, but, as at late September, this had not yet been agreed and it was unclear what would happen when the temporary promotions came to an end.⁶²
- 8.10** From April 2019, the workload for the Sheffield team "jumped significantly" as the bulk of family reunion applications were on-shored, including those from the Pretoria DMC that had not been made in Khartoum. Asylum Operations agreed to recruit a further four EO decision makers, intending that there should be eight decision makers working on family reunion applications at any given time. Inspectors were told that eight decision makers should

61 Temporary Cover Allowance (TCA) is an allowance paid to staff who "perform the full duties of a higher grade for a period of at least three months but not generally more than 12 months".

62 At the beginning of December 2019, the Home Office wrote that: "Due to a restructure of the Asylum Operations North and East region, an existing G7 operational manager will take responsibility for Sheffield, which will include the Family Reunion casework. The G7 will be responsible for managing the casework functions in both Sheffield and Leeds. The TCA SEO SCW position has been filled on a permanent basis by an existing SEO SCW who divides her time between Sheffield and Leeds. [The temporary SEO SCW] has now moved into the HEO technical specialist role and this has stabilised the technical team with two full-time permanent technical specialists and a share of a full-time permanent SCW which are in line with staffing ratios. The TCA support EO will be advertised over the next week or so subject to approval at the Asylum recruitment board."

be sufficient when they are all familiar with the work and fully up to speed, but at the time the SEO Operations Manager told inspectors that productivity “isn’t enough yet”.

- 8.11** By June 2019, the Asylum Operations team (Sheffield) was 23-strong, comprising 16 EO decision makers.⁶³ While eight decision makers had been recruited for family reunion work the actual numbers varied. For example, in June 2019, between nine and 13 decision makers worked on family reunion applications. From 5 August 2019, decision makers began to rotate between these functions every three months to ensure they all maintain their skills and awareness of protection needs in both categories. This meant that any of the decision makers could be called upon if there were a surge in family reunion applications.
- 8.12** Two HEO Technical Specialists, one of whom was on TCA to SEO as the Senior Caseworker (SCW), supported decision makers with asylum casework and family reunion applications. The Technical Specialists told inspectors that they had also absorbed certain administrative tasks, including monitoring and responding to family reunion specific queries sent to a shared email inbox and correcting errors made on visas. These were time-consuming and should be an “Administrative Officer function” but admin team, based in Solihull, was unable to carry out this work as it did not have access to the right IT systems.
- 8.13** There were three more HEOs, two team leaders and a workflow manager. The team leaders were involved in monitoring productivity and in the development of time and motion studies to establish the benchmarks for staff outputs.
- 8.14** The team was overseen by an SEO Operations Manager, who split their time between Solihull and Sheffield and by the SCW. The former’s focus was workflow, productivity and staffing levels. The SCW was responsible for the “technical and quality aspects of decision-making”.

Training – Pretoria

- 8.15** ECOs in the Khartoum team told inspectors that they had attended the three-week ECO training course before starting in the DMC. They complimented this training and the informal mentoring and peer-to-peer support they received at post from the “local training team”, which discussed processes for handling cases, different documents they may consider and any updates to guidance. ECMs in Pretoria told inspectors that they had attended the three-week ECO training course followed by a one-week ECM course. All of the ECMs in Pretoria were experienced. They had been in post between three months and eight years. ECMs handled most reviews of family reunion application decisions, only exceptionally discussing a case with the SEO Operations Manager.
- 8.16** In Pretoria, new ECOs had their work checked daily, then weekly. They told inspectors that ECMs were good at providing feedback on their performance via email, one-to-one sessions and informal conversations. ECMs reported that: if an ECO needed additional training it would be offered; ECOs were able to seek further mentoring from colleagues at any stage; and, there were opportunities to work in other areas or teams to improve their skills. When inspectors visited Pretoria, some ECOs were detached for training purposes to the Pretoria’s Post-Decision team responsible for handling appeals.
- 8.17** One Pretoria ECO commented that “the culture that we have is we would all sit together so if there is anything we are not sure about we can ask colleagues”. Another referred to “clear

63 At the factual accuracy stage, the Home Office reported that the team had 16 “active” decision makers (a 17th was long-term sick).

channels of communication with managers and senior managers” and a number mentioned an “open-door policy”.

8.18 ECOs and ECMs in Pretoria told inspectors that they did not have any local guidance in relation to family reunion applications. They relied on ‘Family reunion: for refugees and those with humanitarian protection’, which they accessed via GOV.UK or Horizon, the Home Office intranet. ECOs were made aware of updates to guidance or the Immigration Rules via Operational Policy Instructions (OPIs)⁶⁴ and:

“ECMs, Operational Managers and Regional Managers will send out emails reminding staff about operational processes/to review the centralised guidance/reminders but these are not local guidance.”

8.19 ECOs also referred to a local spreadsheet containing country-specific information that was used to assist decision-making. However, the Home Office told inspectors that this was not used for assessing family reunion applications. Meanwhile, ECMs said that they were responsible for compiling information about a particular country or countries using local knowledge gained through: visits and liaison with colleagues and contacts; keeping up to date with diplomatic telegrams and news articles; and attending meetings such as Migration 5 (M5)⁶⁵ to exchange knowledge.

Training – Asylum Operations Sheffield

8.20 Inspectors were told that EO decision makers in Asylum Operations (Sheffield) team had received “refined entry clearance training” as they did not work on entry clearance routes apart from family reunion applications.

8.21 Their training, which was developed and delivered by the Senior Caseworker in April 2019, comprised eight modules:

- Module 1: Introduction and background to family reunion
- Module 2: Immigration Rules – Part 11, Paragraph 352 – spouse and partner
- Module 3: Immigration Rules – Part 11, Paragraph 325 – children
- Module 4: Immigration Rules – Part 8, Paragraph 319X⁶⁶
- Module 5: Immigration Rules – Part 9, Paragraph 320 – general grounds for refusal and TB certificates
- Module 6: Leave outside the rules (LOTR) and recourse to public funds (RTPF)
- Module 7: Visas Operating Mandate
- Module 8: Decision-making process

8.22 New EOs joining the team were first trained and deployed on family reunion applications. They later received the six-week asylum decision-making training, split into two tranches.

8.23 The HEO Technical Specialists told inspectors that they had received the same training as the EO decision makers. They did not get approval to attend the three-week ECM training course

⁶⁴ The Home Office intranet, Horizon, states: “OPIs are instructions or advice that affects all operational work. If you have an operational role it is your responsibility to regularly check this page and read the latest updates. If an instruction is more than six months old you must check with the author or issuing section that the instruction is still valid.”

⁶⁵ The immigration authorities of Australia, Canada, New Zealand, the United Kingdom, and the United States.

⁶⁶ Paragraph 319X lists the requirements to be met by a person seeking leave to enter or remain in the UK as the child of a relative with limited leave to remain as a refugee or beneficiary of humanitarian protection in the UK.

as the most of it was not be relevant to their work. As an alternative, they had suggested shadowing an ECM and this suggestion was being considered by the Senior Caseworker.

- 8.24** In addition to the published family reunion guidance, the Sheffield team had access to a range of resources and tools, including: an interactive dashboard providing links to key documents, policies and guidance; process maps; a case walkthrough guide; a summary of relevant case law. This spreadsheet was “created locally when the team first began case working family reunion applications using Proviso, and therefore served to ensure the operating mandate was adhered to and that each caseworker considered cases in the same manner.”
- 8.25** Inspectors observed decision makers in the Asylum Operations team at work. The decision makers, who sat together, appeared to work well as a team, and the Technical Specialists described them as “good at sharing”, which helped consistency and meant that issues and trends were more likely to be identified.

Administrative support

- 8.26** Family reunion casework is recorded on Proviso, which was described to inspectors as “a local server-based case working system owned by the Home Office and operated on the FCO platform”. Proviso is used at all DMCs overseas and those in the UK that process overseas caseworking. Each Proviso holds records of decisions which were processed in that DMC. Each Proviso’s caseworking data is ingested into a workflow tool that produces management information on case progression, previously known as ‘Stage and Age’ and in its latest version known as BAM (Business Activity Reporting). Because Proviso is a local server-based system, data entered at one DMC is not visible via Proviso at another DMC. However, all Proviso data can be viewed via the Central Reference System (CRS), a web-based application containing entry clearance data.
- 8.27** In Pretoria, administrative support for family reunion applications is provided by Home Office staff based in the same building as the Khartoum team.
- 8.28** Administrative support for Asylum Operations (Sheffield) is mostly based in Solihull. The Solihull team is responsible for preparing ‘bundles’ for the decision makers (for example, linking the asylum screening interview to the application), for workflow and allocation, and for case prioritisation and monitoring case progression and the WIP against the Service Standard.⁶⁷
- 8.29** The Solihull-based workflow manager is responsible for “reviewing” and “correlating” Proviso ‘Stage and Age’ report[s] against a local workflow spreadsheet, which is created because there is no access to Proviso in Solihull. The SEO Operations Manager, who is also based in Solihull, is ultimately responsible for ensuring Asylum Operations (Sheffield) meet the Service Standard. The Operations Manager told inspectors the process of comparing the local spreadsheet with the ‘Stage and Age’ reports was “very laborious” and prone to error.

⁶⁷ Both Asylum Operations (Sheffield) and the Pretoria DMC told inspectors that the Service Standard for family reunion applications was 60 working days from the point the applicant submits their biometric data.

9. Inspection findings: Decision quality

ICIBI's 'Expectations'

9.1 The fourth of ICIBI's 'Expectations' is that:

“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)”

'Right first time'

Stakeholder concerns

9.2 Stakeholders with experience of supporting family reunion applicants and their sponsors have raised serious concerns about the quality of the Home Office's decisions.

9.3 Of the 27 stakeholders who submitted evidence for this inspection:

- two-thirds were dissatisfied with decision quality, describing decisions as “unjustified”, “harsh” or “unfair” and not quality assured
- around half
 - felt that the supporting evidence they provided had not been considered in line with the policy
 - reported that the Home Office did not assess or take into consideration compelling, compassionate factors or exceptional circumstances
 - found the process upsetting, frustrating and emotionally draining

9.4 Inspectors also met family reunion sponsors and applicants and heard from them about the negative impact of poor decision-making.

File sample

9.5 Inspectors examined 176 family reunion applications where a decision to grant or refuse had been made between 1 July 2018 and 30 June 2019 – see Figure 5.

Figure 5: File sample, broken down by location and outcome			
Location	Granted	Refused	Total
Asylum Ops Sheffield	73	28	101
Pretoria DMC	45	30	75
Total	118	58	176

9.6 Inspectors examined the main reason for the refusal in the 58 refused cases:

- 30 were refused because the decision maker was not satisfied that the relationship to the sponsor was as claimed
- 14 were refused because the applicant did not meet the eligibility rules
- 2 were refused because the relationship was judged to be “post-flight”
- 2 were refused because the “sponsor” did not meet the eligibility rules
- 10 were refused for some other failure to meet the rules, including failure to provide a TB certificate

Identity and security checks

9.7 Applicants for a family reunion visa must satisfy identity and security checks. The documents the applicant may use to prove their identity include a passport, national identity card and “other official documents” such as a UNHCR refugee status card. Acknowledging the challenges some applicants face in providing such documents, the guidance allows for applicants to:

“provide a reasonable alternative [of the documents] and explanation of their absence, including any attempts to obtain them, and to satisfactorily demonstrate they are related as claimed to their sponsor.”

9.8 Within the file sample, none of the 58 refusals was as a result of security checks.

Eligibility

9.9 The guidance sets out what caseworkers must do to ensure that sponsors and applicants are eligible for family reunion:

- Ensure the sponsor meets the eligibility rules as set out in Paragraphs 352A-FJ of the Immigration Rules – lawfully resident in the UK, has not yet obtained British citizenship, and falls into one (or more) of the following categories:
 - currently has refugee status
 - currently has humanitarian protection status
 - was admitted under the [Gateway Protection Programme](#)
 - was admitted under the [Mandate Refugee Programme](#)
 - was admitted under the Syrian Vulnerable Person Resettlement (VPR) scheme
- Ensure the applicant meets the eligibility rules as set out in Paragraphs 352A-FJ of the Immigration Rules
- Establishing a genuine pre-flight, and current, relationship; and applicant and sponsor intend to live together in the UK

- Ensuring the sponsor and applicant are related as claimed

9.10 From the file sample, it appeared that caseworkers found checking the sponsor’s status straightforward. It was a matter of record and there was no evidence to suggest that they were getting this wrong. The two cases in the sample that were refused on this basis were correctly refused. However, the “tests” for a pre-flight and enduring relationship and for “related as claimed” were more problematic, since they required the decision maker to assess whether the evidence provided reached the required standard of proof. The Home Office told inspectors that “applying the correct standard of proof and considering evidence in the round” formed part of the training and mentoring process for decision makers. But, inspectors found inconsistencies in how evidence was assessed.

Forms of evidence

- 9.11** The guidance makes it clear there is “no requirement in the Immigration Rules for specified evidence to support a family reunion application” and that “caseworkers must be mindful of the difficulties that people may face in providing documentary evidence of their relationship of the fact that it is subsisting”, noting that applicants may “not have time to collect supporting documents” when fleeing conflict zones or dangerous situations, showing an awareness and consideration in the policy to consider the difficulties family reunion applicants face.
- 9.12** The file sample, together with evidence from stakeholders and discussions with decision makers, highlighted that the validity of documents from certain countries, particularly Sudan and Eritrea, was frequently doubted and in some cases such documents discounted as having no evidential value.

‘Balance of probabilities’

- 9.13** The guidance instructs caseworkers to “consider whether, on the ‘balance of probabilities’, there is sufficient information to accept that the sponsor and applicant are related as claimed and that the relationship is genuine and subsisting”.
- 9.14** The case records examined by inspectors revealed materially different judgements about the evidence required to tip the ‘balance of probabilities’ in an applicant’s favour. Within the Pretoria sample, inspectors found different standards applied to:
- whether there was sufficient evidence that the applicant and the sponsor had lived together pre-flight (this was seen by stakeholders as a particular issue for Eritrean applicants where the sponsor had been conscripted into military service at the point the couple married, leaving the wife to continue living in her family home)
 - the frequency and forms of contact that constituted evidence of a genuine and sustaining relationship between the sponsor and the applicant(s), with different weights given to periods where there was no contact, to social media conversations, to money transfers, and to post-flight meetings in third countries
 - the frequency and forms of contact post-flight between a parent and their child(ren), particularly young children under the age of 10

- the weight attached to photographs (this was an issue with Muslim weddings, at which it may not have been culturally or religiously acceptable to take photographs, but where the absence of photographic evidence was questioned by decision makers; while inspectors found one example where the wedding photographs were rejected because they were not date-stamped)

9.15 Inspectors raised these issues with senior managers in Pretoria, who acknowledged the need for additional oversight measures. Meanwhile, the different standards had a particular impact on some of the most vulnerable applicants, for example de facto adopted children – see Case Study 1.

Case Study 1: Unreasonable expectations of documentary evidence in respect of a de facto adopted child

Initial application

An Eritrean female made an application for family reunion for herself and her two dependent children to join her husband (the sponsor) in the UK. One of the children was a nephew, whom the family had adopted. All three applications were refused.

Reapplication

The three reapplied. The woman and her biological child were granted. However, adopted child was refused.

The latter's refusal notice stated that "You have not submitted evidence of an official adoption order and even if you had, we would not recognise an adoption from Eritrea. There are other categories that you could apply under which attract a visa application fee however as you have not paid a visa application fee for this application your application cannot be considered under a different category."

Further application under Paragraph 319X of the Immigration Rules

A further application for family reunion was submitted on behalf of the de facto adopted child and this was granted.

Inspectors' observations

Inspectors were concerned about the second refusal for the adopted child. The information recorded in the case notes was limited, but there no evidence that the decision-maker had considered the vulnerability of the child if he were to be left behind. Meanwhile, as written, the refusal notice appears to say that an adoption from Eritrea would not be recognised regardless of any official documentation, suggesting that documents from certain countries are routinely disbelieved rather than individually assessed.

Home Office response

"The nephew applied alongside the other family members. The other family members qualified to join the sponsor under the family reunion rules and were issued.

Consideration of whether this would leave the nephew in a vulnerable situation should have been made, in addition to whether there was the potential to qualify under another route. Paragraph 319X allows for those under the age of 18 to join family members.

Case Study 1: Unreasonable expectations of documentary evidence in respect of a de facto adopted child

This route attracts a fee which must be paid for consideration to take place. In this case, the DM could have contacted the sponsor to consider whether they would like to make a paid for application for the nephew. If this had been accepted they could then have been considered at the same time as the rest of the family. We have changed processes since this application, to ensure that caseworkers consider this option before making a decision to refuse.

It is accepted that the refusal wording is confusing as it should just say that Eritrean adoptions are not automatically recognised (The Adoption (Recognition of Overseas Adoptions) Order 2013).

The nephew subsequently made an application under 319X and was issued a visa. Provisions around the recognition of inter-country adoptions does not sit within the Immigration Rules, but with wider legislation as noted above.”

- 9.16** Though the sample was not large enough to be statistically significant, based on the applications examined by inspectors, Asylum Operations (Sheffield) appeared to take a more holistic approach to supporting evidence. This was recognised by one stakeholder who observed Sheffield’s decisions were better considered and better explained than Pretoria’s and therefore any refusals were harder to challenge and overturn.

Asylum interview records

- 9.17** Under ‘Proof of relationship’, the family reunion guidance states:

“Caseworkers must take into account any other evidence previously available to the Home Office as part of any other application. For example, evidence submitted as part of the asylum claim (statement of evidence form (SEF), witness statements, asylum interview or evidence from any appeal hearing). The fact that family members have been mentioned in the asylum claim is a strong indication that they formed part of the pre-flight family unit.

If there is no reference to dependants as part of the previous asylum claim, this may be related to factors such as security concerns for family overseas. Where there are other factors that undermine the credibility of the application, caseworkers must consider refusing the application on papers alone.”

- 9.18** It is therefore standard practice for decision makers considering family reunion applications to check the sponsor’s asylum interview records, especially the record of the initial Asylum Screening Interview, for any reference to the applicant(s). The SEF asks claimants to provide for details of “spouse/partner and children not included on asylum claim”, including name(s), date(s) of birth, nationality, location and relationship(s).
- 9.19** In Pretoria, prior to the family reunion application being seen by a decision maker, an Entry Clearance Assistant (ECA) ensures that the sponsor’s asylum interview record has been retrieved and attached. In Sheffield, decision makers receive a ‘bundle’, which includes the sponsor’s asylum interview record. It is the responsibility of the administration team in Solihull to put this bundle together.

- 9.20** From the file sample, the average time taken to retrieve and connect the sponsor’s asylum interview record was nine days for successful applications and 12 days for applications that were refused. The longest time taken was 32 days and 57 days respectively.
- 9.21** Some applicants include a copy of their sponsor’s asylum interview record with their application. In the file sample, inspectors found that this was the case in just over half of the 118 successful applications and in 12 of the 58 unsuccessful ones. Where the applicant provides a copy of the asylum interview report, the practice in Sheffield and Pretoria is to call for and rely on the Home Office copy.

Case study 2: Asylum interview evidence ignored

The applicants

A Sudanese female made a family reunion application for herself and dependent child to join her husband in the UK. As supporting evidence, she provided a DNA test to confirm that her husband (the sponsor) was the child’s father, plus screenshots of online chats and money transfer receipts.

The decision

The report of the sponsor’s Asylum Screening Interview and his Statement of Evidence form (SEF) showed that he had mentioned his spouse when interviewed. Nonetheless, the applications were refused on the basis that the applicant had failed to prove a relationship as claimed with her sponsor.

The refusal notice stated:

“To evidence your relationship, I note that you have submitted DNA results stating that you have a child from your UK sponsor. You have stated in your application that you lived with your sponsor after marriage until he left to travel to the UK on 14/01/2014, however you have provided no evidence of this. I therefore am not satisfied that your marriage is as stated ... You have provided no evidence to show that you were in a relationship with your sponsor before he went to the UK. ... I therefore refuse your application as I am not satisfied you are the partner of a person who currently has refugee status granted under the Immigration Rules in the United Kingdom and that any relationship existed before the person granted refugee status left the country of their former habitual residence in order to seek asylum 352A (i)(iii)”

Inspectors’ observations

The case notes indicated that this case had been reviewed by a Home Office manager ahead of the inspection visit and that this resulted in the decision being revoked. Given the evidence that was available to the decision maker, inspectors were concerned about the decision to refuse. They were also concerned that it had taken three months to review the case. It was unclear whether a review would have been conducted had the case not been selected for examination by inspectors.

Home Office response

“At the time of decision, Pretoria had an exemption from the need to review FR refusals under the Review to Risk strategy. However, following the CI file sample review and reduced caseload because of on-shoring, all FR refusals are now reviewed by an ECM.

Case study 2: Asylum interview evidence ignored

The review took place as part of the CI file sample pre-visit review.

Feedback has been given to the wider team, that applicants named on the SEF and providing DNA evidence to show that they are related as claimed should be a clear indication that they are a pre-flight family unit.”

Document verification

9.22 Guidance and signposting to information about forgery detection were available on the Home Office intranet and staff also received some on-the-job training. Staff in Asylum Operations (Sheffield) had access to iFADO⁶⁸ and PRADO,⁶⁹ online databases with information about passports and other identification documents. Entry Clearance staff in Pretoria did not have access to these systems.

9.23 Nonetheless, managers and staff regarded document verification as challenging:

“It is particularly difficult to make verification checks in many of the countries covered by the Pretoria Decision Making Centre (DMC). Outside of South Africa, UKV&I and Immigration Enforcement (RALON)⁷⁰ have a very limited presence. RALON are only located in Nairobi (Kenya) and Pretoria (South Africa).

Another added complication can be language barriers in Portuguese-speaking (Angola/Mozambique) and French-speaking (DRC/Rwanda/Madagascar/Mauritius) areas.”

9.24 Eritrean and Sudanese applications were seen as particularly testing:

“It is genuinely difficult. It is hit and miss. We can use the forgery team if we have the documents to build up a profile. We are doing what we can. The verification is not just around fraud but also around trafficking and vulnerability.”

9.25 ECMs in Pretoria told inspectors that where there were no civil authorities, or none that could be contacted for advice, in some cases because it could have safety implications for the applicant, it was hard to verify documents. They highlighted the recent increase in Eritrean family reunion applicants who had claimed asylum on arrival in the UK, commenting that if they could “enrich”⁷¹ Eritrean marriage certificates it could prevent this “problem”.⁷²

9.26 Inspectors were told of some concerns within Asylum Operations that because UK-based decision makers had to rely on “tri-scanned” copies of the passport and travel documents, and were not able to handle the originals, it was more difficult for them to identify fraudulent documents. Staff in Sheffield acknowledged that document verification was challenging. But,

68 FADO is a European database and maintained by documents experts from the EU Frontiers/False Documents Working Party. It contains high-quality images and technical information on over 2,500 specimen and false passports, identity cards, residence permits, driving licences and other documents, mostly provided by countries in the European Union (EU)/European Economic Area (EEA). Alerts about false documents are posted on the system. iFADO is a read-only version of FADO.

69 PRADO (Public Register of Authentic Documents Online) is available to anyone who needs to check travel and identity documents, such as employers, banks and security companies.

70 Immigration Enforcement International (IEI), formerly known as RALON (Risk and Liaison Overseas Network), are responsible for gathering relevant, timely intelligence and information to prevent irregular migration and tackle organised immigration crime. IEI works with UKVI to mitigate the risks to the visa system that supports ECOs in the decision-making process. In Africa, at the time of this inspection, IEI had a presence in Ethiopia, Ghana, Nigeria, Kenya and South Africa.

71 The Home Office uses the term “enrichment” to describe further checks that are carried out on documents provided by applicants which help to build historical data, for inclusion in risk profiles.

72 Regarding an asylum claim from a successful family reunion applicant as a “system failure” is indicative of a visa operations “mindset”. Family reunion applicants may have grounds for making an asylum claim post-arrival, for example, if the relationship with their sponsor breaks down.

as well as examining the tri-scan of any document, they told inspectors they were able to refer documents to local enrichment teams and Immigration Enforcement International (although this created delays), or to ask ECMs at overseas DMCs to carry out local checks for them.

Translations

9.27 Stakeholders told inspectors they were unclear whether all evidence needed to be translated into English, commenting on the significant financial burden for applicants to translate several years of WhatsApp communications. From the file sample and from observations by inspectors, it appeared that decision makers expected to see translations of certificates, such as birth or marriage certificates, but not of social media correspondence.

Requests for additional information

9.28 Family reunion guidance states that:

“caseworkers may request further information about the application ... Requests for further evidence or documents should be sensible and realistic, bearing in mind the situation which has prompted the refugee to leave their country of origin or habitual residence.”

9.29 In the Pretoria file sample, inspectors identified seven examples of applications that were refused where a request for additional information may have resulted in the application being granted. Inspectors raised these cases with the Home Office, who responded with the same comment in each case:

“HO FR consideration guidance issued 29.7.16 states that the DM *may*⁷³ request further evidence. In this case the DM was able to reach their decision without the need for additional information.”

Interviews with sponsors and applicants

9.30 Family reunion guidance states that:

“... If the caseworker considers that an explanation about the lack of documents or further evidence is required to support the claimed relationship, enquiries should be made through either the applicant’s representative, by post or by arranging a telephone call to the sponsor or applicant (where appropriate). If the caseworker is still not satisfied with the evidence they may, if they think necessary, arrange an interview with the sponsor in the UK and or with the applicant overseas.”

9.31 During this inspection, staff in Asylum Operations (Sheffield) and the Pretoria DMC told inspectors that they can and do conduct interviews if necessary, although ECMs in Pretoria commented that the lack of access to interpreters meant that interviews were often conducted without an interpreter.

9.32 The sample of 176 applications examined by inspectors contained only one where the decision-maker, from the Pretoria DMC, conducted an interview. The application was refused.

⁷³ *Italics used in original.*

Grant and refusal rates

- 9.33** Inspectors asked the Home Office for the file reference numbers for all grants and refusals of family reunion applications decided between 1 July 2018 and 30 June 2019 – see Figure 6.

Figure 6: Applications decided between 1 July 2018 and 30 June 2019, broken down by decision location and outcome			
Location	Granted	Refused	Total
Pretoria DMC	1,716 (54%)	1,470 (46%)	3,186
Asylum Ops Sheffield	1,421 (80%)	365 (20%)	1,786

- 9.34** Inspectors asked the Home Office about the significant difference in the grant and refusal rates for Sheffield and Pretoria. They were told that the figures were as expected and that they reflected: that the process was “bedding in” in Sheffield, but it was trying to take a “more holistic approach”; that the quality of documentary and other evidence received in Pretoria was often poor and that, with the Khartoum applications, the DMC had been left with many of the harder cases.
- 9.35** The period covered in Figure 6 was chosen to capture the transfer of applications from DMCs to Asylum Operations (Sheffield). It is different from Figures 1 and 2, which reflect calendar year totals and grant/refusal percentages. Based on Figure 6, it would be reasonable to expect to see an increase in the overall grant rate compared with the historic average as a greater proportion of decisions are made by Asylum Operations. However, Figure 2 shows that the overall rate for 2019 to 30 September remains the same (72% to 28%) as for 2018. The Home Office should be looking to monitor this closely and to understand what it is saying about decision quality, consistency and the functioning of the family reunion process. Inspectors saw little evidence that any such monitoring and analysis was taking place.

Leave outside the Rules

- 9.36** Between 1 January and 1 June 2019, according to Home Office data, 3,948 family reunion applications were decided. Of these, 100 were referred to the Referred Casework Unit (RCU) for consideration of Leave outside the Rules (LOTR) due to exceptional circumstances or compassionate factors, of which 99 were approved (one was discontinued). Eighty-seven of the approved cases were referred by Asylum Operations (Sheffield), seven by the Pretoria DMC. The remainder were referred by the Abu Dhabi and Istanbul DMCs. Ten of the approved cases involved an adult joining their child(ren) in the UK and eight involved a child joining their sibling(s).
- 9.37** The transferring of family reunion decisions to Asylum Operations (Sheffield) had had a marked effect on LOTR referrals. In 2018, there were 86 referrals, of which 17 were discontinued. Asylum Operations (Sheffield) had 27 LOTR referrals approved, Pretoria DMC nine, with the remainder divided between the Abu Dhabi, Istanbul and Amman DMCs. Four of the approved cases were adults joining children and seven were children joining their siblings.
- 9.38** In the sample of 118 case records examined by inspectors where family reunion was granted between 1 July 2018 and 30 June 2019 there were two referrals for consideration of LOTR. In the 58 refusals, 10 (18%) were referred but LOTR was not approved. In the remaining 48 (82%) cases the decision maker did not make a LOTR referral.

- 9.39 An NGO provided a case study, highlighting the difficulties applicants faced in meeting the threshold for LOTR.

Case study 3: Unreasonable threshold for Leave outside the Rules

The applicants

In 2016, a sponsor from sub-Saharan Africa submitted family reunion applications in respect of her five children, four of whom were under 18 and one 19 years old.

The children were being cared for by the eldest child. The sponsor supported her family financially, regularly sending money to her eldest child to take care of his siblings. The younger siblings were wholly dependent on him (one had had a leg amputated and another had been sexually assaulted and remained traumatised).

The Home Office

The Home Office granted family reunion for the four children under 18 but refused the 19-year old. The refusal notice stated that: “no compelling circumstances had been cited for the 19-year old sibling, ... he had demonstrated independence by being the primary carer for his brothers and sisters since 2010”.

The decision maker added: “as his younger siblings were reuniting with their mother, they no longer required the care of and bond from their older brother”.

The decision maker also stated that “the decision to refuse the 19-year old’s application did not breach his right to family life, as he could continue to communicate with his siblings and mother through other channels”.

Appeal

When the applicant appealed the Home Office withdrew the initial decision and issued him with Leave Outside the Rules (LOTR).

Safeguarding vulnerable family reunion applicants

- 9.40 The Home Office Borders, Immigration and Citizenship System (BICS) encounters vulnerable individuals in many circumstances and the ability of the system and of staff to recognise vulnerability and to respond appropriately and effectively has been examined in previous ICIBI inspections.⁷⁴
- 9.41 For practical purposes, BICS has codified the types of vulnerability it most often encounters, such as “unaccompanied minor”, “pregnancy”, “victim of torture”, “physical disability or mental health issues”, while recognising that there are times, such as when selecting “the most vulnerable” for the Vulnerable Persons Resettlement Scheme (VPRS), when the judgement is best left to others. In the case of VPRS, UNHCR applies its Global Vulnerability Criteria – see Figure 7.

⁷⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/769849/ICIBI_inspection_of_the_Home_Office_safeguarding_of_Vulnerable_Adults_Feb-May_2018.pdf

Figure 7: UNHCR’s Global Vulnerability Criteria

Vulnerability Criteria	Description
Legal and/or physical protection needs	Individuals who face serious threats to their physical security, particularly due to political opinion or belonging to a minority group, for whom the authorities are unable to provide protection; or who have other protection risks related to their gender
Survivors of torture and/or violence	Where repatriation or the conditions of asylum could result in further traumatisation and/or heightened risk; or where appropriate treatment is not available
Medical needs	Where life-saving treatment is needed that is unavailable in the country of first refuge
Women and girls at risk	Where there are heightened protection needs due to gender
Family reunification	When resettlement is the only means to reunite refugee family members who, owing to refugee flight or displacement, are separated by borders or entire continents
Children and adolescents at risk	Where a ‘best interests’ determination supports resettlement
Lack of foreseeable alternative durable solutions	Where other solutions are not feasible in the foreseeable future, when resettlement can be used strategically, and/or when it can open possibilities for comprehensive solutions

- 9.42** Understood in these terms, most family reunion applicants are by definition vulnerable.
- 9.43** Family reunion guidance notes that the policy intention is “to deliver a fair and effective family reunion process”, including by:
- “ensuring applications are properly considered in a timely and sensitive manner on an individual, objective and impartial basis, acknowledging the vulnerable situation that applicants (particularly women and children) may find themselves in and where possible, expediting claims without unnecessary delay.”
- 9.44** The guidance explains the section 55⁷⁵ duty in respect of children and refers to the consideration of exceptional circumstances or compassionate factors in the case of certain cohorts of applicants who may warrant a grant of leave outside the rules, such as de facto adopted children. However, it is silent on how to identify and consider vulnerable applicants and shows no recognition of the fact that vulnerability can be multi-faceted and is not static. This had been recognised by the Asylum Strategy Team who told inspectors they were seeking to understand how the exceptional circumstances criteria was being applied and to identify any trends, though no timeline on this work was provided.
- 9.45** As part of their broader training for asylum decision-making, staff in Sheffield had received some training about vulnerable groups. They pointed inspectors to the “Keeping Children Safe Checklist for UKVI Sheffield Caseworkers”, dated August 2018, and UKVI’s

75 Section 55 of the Borders, Citizenship and Immigration Act 2009 sets a duty to have regard to the need to safeguard and promote the welfare of children in the UK.

'Safeguarding Referral Desk Aide'.⁷⁶ However, these documents were not specific to the family reunion process.

- 9.46** Meanwhile, staff in Pretoria pointed to the 'UVKI Safeguarding Children Strategy (2015-17)', 'UKVI Safeguarding Adults Strategy (2016)', and OPI 623 'Handling applications from vulnerable people (January 2016)',⁷⁷ plus mandatory e-learning.
- 9.47** In interviews with inspectors, decision makers in Sheffield and in Pretoria demonstrated an understanding of specific vulnerabilities that might arise in a family reunion case, for example, when a child in a family group was issued with a different entry clearance "window" from other family members and risked becoming unaccompanied. ECOs in Pretoria also recognised that attending a VAC could put some applicants at risk. They told inspectors: "Family reunion applicants are vulnerable people and we are conscious of them waiting in vulnerable environments".
- 9.48** Stakeholders raised concerns about the extent to which vulnerability was recognised in practice. According to senior management, Asylum Operations (Sheffield) did not prioritise applications based on the applicant's vulnerability. Applications were considered in date order. However, Pretoria DMC said that some applications were prioritised on the basis of vulnerability, for example applications from unaccompanied children and single females, while the remainder were considered in date order:
- "... those [family reunion applicants] who are under 18 and applying on their own, are brought to the front of the queue. We have liaised with the sponsors legal representatives as well as the British Red Cross and University of Kent Law Clinic amongst others on such cases."
- 9.49** Inspectors found no evidence of this approach in the sample of 75 applications decided between 1 July 2018 and 30 June 2019 that were examined.
- 9.50** Mechanisms existed for decision makers to refer applications that raised safeguarding concerns. In Sheffield, where the concern was about the sponsor, for example, regarding their mental health or them having threatened to self-harm or commit suicide, decision makers in Sheffield were instructed to liaise with the Home Office Safeguarding Hub, Social Services or the sponsor's GP. Where the concern was about an overseas applicant, the decision maker was instructed to alert Immigration Enforcement International to request details of organisations that could potentially provide support and assistance, and to discuss the case with the Technical Specialist if they intended to issue the visa.
- 9.51** The Home Office was unable to say how many referrals had been made due to safeguarding concerns about family reunion applicants or sponsors as this data was not routinely collected. There was no evidence of safeguarding referrals in any of the files examined by inspectors examined. However, inspectors found five cases (four refusals and one grant) that raised safeguarding concerns that were not explored by the Home Office, including one where they felt there should have been a referral because of the age of the applicant when she and the sponsor married – see Case Study 4.⁷⁸

76 At the factual accuracy stage, the Home Office commented that: "Vulnerability training undertaken that pertains to both of our workstreams is: Keeping Children Safe - General Awareness; Keeping Children Safe - Detention Operations; Keeping Children Safe Tier 3; Recognising & Preventing FGM; Modern Slavery – Non-Border Force Version; Modern Slavery - National Referral Mechanism."

77 OPI 623 is a one-page document instructing entry clearance staff to be alert to applications from vulnerable applicants, couched primarily in terms of those at risk of self-harm.

78 Case was granted by Pretoria, but previously refused by Amman

Case study 4: Failure to refer a potentially vulnerable applicant

The applicant

In 2017, a Syrian female applied to join her spouse in the UK. The applicant was 16 years of age. She had a child and also made a family reunion application on behalf of her child.

Refusal

The application was refused by an overseas DMC on the basis that: “Paragraph 227 of the Immigration Rules states that in order to be granted entry clearance as a spouse, both the applicant and the sponsor must be over 18 on the date on which the entry clearance is granted”.

Reapplication and grant

The applicant reapplied in 2019, when she was 18. Her application was granted by a different overseas DMC.

Inspectors’ comment

This case should have triggered some form of safeguarding referral. At the time of the first application, the applicant was a child with a baby, both of whom were in need of protection. In granting the reapplication, the fact that the now 18-year old woman had given birth to her first child with her husband when she was 15 should have led to referral so that the welfare of the woman and her child once they were in the UK could be considered.⁷⁹

Timeliness

- 9.52** The Home Office told inspectors that it worked to a Service Standard of 60 working days for a decision on a family reunion application.
- 9.53** The overseas caseworking system, Proviso, enabled both Asylum Operations (Sheffield) and the Pretoria DMC to monitor their own Work in Progress (WIP)⁸⁰ on a daily basis using the ‘Stage and Age’ tool. The tool provided a snapshot of each WIP, visible only to the location to which it referred. The Home Office manually overrode the ‘Stage and Age’ tool in an attempt to provide inspectors with historical data on the family reunion WIP, but the data produced was unusable and so no conclusions could be drawn from it about any trends in either WIP.
- 9.54** Asylum Operations staff in Solihull also maintained a spreadsheet to monitor the Sheffield WIP. This showed that between 6 March and 26 September 2019, 52 applications had missed the 60-day Service Standard. In four cases, the reason recorded was “missed SLA due to error on spreadsheet calculation – lag time not included”. Other recorded reasons included failing to mark an application as “complex” when it should have been, allocating the case after “the SLA” had expired, allocating the case to a decision maker who was on leave, and the case having been “referred to visas”.
- 9.55** Of the 118 grants within the file sample examined by inspectors:
- 108 (92%) received a decision within the 60-day Service Standard
 - six received a decision within 70 days

⁷⁹ The family reunion application form does not require the date of marriage and supporting documents were not available for inspectors to view in this case.

⁸⁰ The applications recorded as having been received by the Home Office and awaiting a decision.

- two received a decision within 80 days
- one took 125 days, and
- one took 258 days⁸¹
- 19 of the 118 cases were deferred to request additional evidence
- eight had been marked as “complex”, all of which were decided within the Service Standard

9.56 For the 58 refusals, the shortest time taken to serve a decision was 19 days and the longest 129 days. The average was 47 days (compared with 42 days for the 118 grants). In 13 cases, the decision was deferred to request additional evidence. In 12 cases, a copy of the SEF/Asylum Screening Interview report was provided with the application. Where it had to be retrieved by the Home Office, it took an average of 12 days, with one case taking 57 days.

Alignment of entry clearance dates

9.57 In the sample of 118 grants, 76 belonged to a family group. Inspectors found that 70 (92%) cases the entry clearance dates on the visas issued to the family members were aligned.

Incorrect “complexing”

9.58 In the sample of 75 family reunion cases decided in Pretoria, only one had exceeded the Service Standard. This was a refusal, which had taken 62 days. The case was marked as “complex” due to a delay in receiving the SEF from the Home Office. This was contrary to the guidance on complexing. Inspectors could find no evidence that this case had been reviewed by an ECM.

9.59 The 2016 inspection report recommended that the Home Office should: “Ensure that family reunion applications are not wrongly recorded as ‘complex’ when delays are of the Home Office’s making.” This recommendation was accepted. The Home Office response stated:

“Guidance is clear that cases must not be marked as complex in these circumstances. It is being reviewed and will be reissued. Performance against processing times is closely monitored, including the number and reasons for cases being marked as ‘complex’. Regional directors have to account for these cases in performance discussions, and close scrutiny of complex cases is inbuilt into the performance reporting system. The instruction for staff regarding complex cases is being revised and will be reissued.”

Notification

9.60 Caseworkers are required to notify applicants in writing of the outcome of their family reunion application. Where the decision is a refusal, the guidance states:

“Refusal decisions must make reference to the supporting evidence submitted with the application and a consideration of why the evidence submitted does not satisfy the Immigration Rules to the required standard of proof. The decision must provide reasons why the application does not warrant a grant of leave on the basis of the applicant’s ECHR Article 8 family life under the exceptional circumstances policy, or on the basis of compassionate or compelling factors.”

⁸¹ In this case, the supporting documents were posted to the wrong location resulting in a significant delay.

- 9.61** Stakeholders provided inspectors with examples of where applicants had reapplied and submitted additional evidence but had received a refusal notice that contained paragraphs cut and pasted from the applicant's previous refusal notice, citing the same reasons for refusal and giving no indication that the additional evidence had been considered. In one such refusal notice, issued by the Pretoria DMC, the wording was identical and included an error that had been pointed out by the applicant's representative on receipt of the first refusal notice.
- 9.62** Inspectors also found errors in the file sample, including a reference to the wrong country of origin of the applicant and reference to a 14-year old applicant as being 18 years old.
- 9.63** The Home Office provided inspectors with copies of the refusal notice template (Non-FMRNv01 17 form), Operational Policy Instruction (OPI) 727 (Appendix FM Rule changes), and OPI 870. OPI 870 was issued on 21 August 2019 by Central Operations. It sets out how staff should structure family reunion refusals, reminding them:
- "You should set out your reasons for refusal by assessing the claim against the relevant Immigration Rules. You must make clear findings and explain why the applicant does not meet the Rules, with reference to the documentary evidence the applicant and sponsor has submitted."
- 9.64** The Pretoria DMC was using a number of different refusal notice templates. From conversations with managers and staff, it emerged that some decision makers had been using generic entry clearance refusal letters, others were using the template for settlement application refusals amended to reflect the fact that the decision related to family reunion, while some were using what they described as "a dedicated family reunion template", which turned out to be an older version of the Non-FMRNv01 17 form.
- 9.65** The Home Office Central Operations told inspectors that, provided the relevant paragraphs and appeal rights were copied and pasted into the body of the refusal letter, the fact that different templates were used would have no adverse impact any applicant.
- 9.66** During the course of the inspection, the management team in Pretoria wrote to inspectors to explain that:
- "As part of the pre visit sample requested by the ICIBI team, after Pretoria DMC received post decision correspondence in relation to a FR refusal from Sheffield, the management team here agreed to adopt the paragraph Sheffield had been using which referenced any compassionate circumstances raised that were relevant to the decision , as well as the circumstances of the applicant at the time of their application. Pretoria DMC did not receive any FR refusal notice from Central Ops until OPI 870 was sent out, by which time the ICIBI team had finished their inspection in Pretoria."

Record keeping

- 9.67** Overall, record keeping in both Pretoria and Sheffield required improvement.
- 9.68** In Pretoria, notes on Proviso were sparse and it was difficult to understand what evidence had been considered by the decision maker and the value attached to it. In Sheffield, while record keeping was better in terms of clearly setting out the evidence that had been considered and the conclusion reached, the use of CID led to different information being recorded on the two systems. The more thorough approach in Sheffield was, in part down, to the clear instructions provided to staff by the Senior Caseworker regarding what should be recorded on Proviso.

10. Inspection findings: Putting things right

ICIBI's 'Expectations'

10.1 The fifth of ICIBI's 'Expectations' is that:

“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”

Identifying, acknowledging and correcting errors

Quality assurance

10.2 The Home Office's ability to identify errors in relation to family reunion applications relies on effective quality assurance of individual decisions and of how the process as a whole is working. Inspectors therefore looked at the quality assurance regimes in place in Asylum Operations (Sheffield) and at the Pretoria DMC.

Review to Risk

10.3 Review to Risk (R2R) is a UKVI quality assurance strategy and framework used in all DMCs, including Pretoria. Under R2R, every DMC is required to carry out certain “baseline” quality assurance checks, in addition to which each DMC can introduce further checks based on local factors. Some checks are made before a decision is dispatched to the applicant, while others are retrospective.

Previous inspection findings and recommendations

10.4 The 2016 ICIBI inspection of family reunion applications questioned whether R2R, which was applied primarily to visitor and other non-settlement visas, was the most appropriate assurance mechanism for family reunion applications. It recommended that the Home Office should:

“Reconsider whether assurance based on a ‘Review to Risk’ approach gives sufficient weight to the potential humanitarian protection consequences of family reunion refusals. In particular, ensure trends and issues associated with particular nationalities are identified and monitored.”

- 10.5** The Home Office accepted this recommendation, stating that the R2R strategies of its regional teams were refreshed regularly, but the teams had been tasked with carrying out more analysis of family reunion cases to “strike a balance between ensuring that those entitled to be reunited with family in the UK are allowed to do so, whilst refusing those that do not satisfy the Rules.”
- 10.6** The 2018 reinspection of the Amman DMC was told that a “refreshed” R2R had been introduced in April 2017, after which “a limited central audit of ECM approval/Full Quality Assurance was undertaken in November 2017 (which included family reunion cases)” had found “nothing ... that indicated that any categories should be added/removed to the R2R”. ICIBI was told that DMCs, including Amman, had reviewed the audit “alongside their own feedback mechanisms to feed into any refinements to the R2R process and improve decision quality”.
- 10.7** Inspectors asked for copies of the risk profiles in use at the Amman DMC for identifying and mitigating the risks posed by family reunion applicants. The Home Office responded that: “There are no separate risk profiles for Family Reunion. We do not consider them necessary given the nature of the applications”.
- 10.8** The 2018 reinspection therefore concluded that the Home Office had “not addressed the specifics of the recommendation, and the description of what has been done to date and what remains ongoing offers little comfort, especially in light of the findings under ‘Decision Quality’,⁸² which demonstrate that ECM reviews are not delivering the required level of quality assurance. Therefore, Recommendation 6 remains open, and the Home Office needs to reflect on whether its response to this challenge is sufficiently serious and urgent”.

Pretoria DMC

- 10.9** At the time of this inspection, the R2R “baseline” for family reunion applications required all decisions to have been referred to an ECM for review and approval before dispatch “to ensure that the correct decision has been made based on the information provided”.
- 10.10** The Khartoum team at the Pretoria DMC told inspectors “all decisions are sent to the ECM for review”. The ECO decision maker then updated Proviso with the outcome and details of the review. The Grade 7 Regional Manager also told inspectors that where an application was going to be refused it will be “run by an ECM to ensure there is strong rationale for a refusal”.
- 10.11** Inspectors examined the case records for 75 family reunion applications decided by the Pretoria DMC between 1 July 2018 and 30 June 2019, of which 46 had been granted and 29 refused.
- 10.12** Based on what had been recorded, 18 of the granted cases were reviewed by an ECM and four of the refusals. This did not tally with the R2R baseline requirement, with what the ECOs had told inspectors, or with what the Regional Manager had reported. When challenged, the Home Office Central Operations Team (COT) told inspectors that exemptions were in place for the Pretoria DMC and ECM approval was required only for applications that were to be issued on a Uniform Format Form (UFF). Five cases in the sample of 75 had been issued on a UFF. Inspectors found no evidence of ECM approval being sought in any of the five.

⁸² Inspectors examined a sample of 48 family reunion cases decided by the Amman DMC between 1 April and 30 October 2017 and had concerns about the decision in 15 cases. Of the 48, 28 had had an ECM review. In nine of these 28, the reviewer had failed to identify one or more errors, including: poorly explained refusal decisions; factual inaccuracies (for example, incorrect personal details, such as date of birth); references to the wrong paragraph of the Immigration Rules; failure to exercise Evidential Flexibility and request additional information or to seek an interview; inconsistent decision-making between refusal and grant decisions.

- 10.13** Inspectors asked for a copy of Pretoria’s request for an R2R exemption. Initially, the Home Office provided a spreadsheet purporting to show all R2R exemptions for all routes. However, this did not show when the Pretoria exemption had been requested or approved or would expire. The entry read: “exemption in place – details requested”.
- 10.14** Inspectors were later provided with the complete record and associated email chain. This showed that the exemption had been requested as ECM resources were required to assure other visa decisions that were “on the red stream”. The request was made on 20 October 2017 to “maintain [the R2R] only when UFF is required”. The request was approved the same day. The approver noted that Pretoria had been “advised to consider reminding ECO/M about the exceptional/compassionate aspect of the guidance and our ability to refer for LOTR and quality of RNs”. There was no record of when then exemption would be reviewed or would expire.
- 10.15** As a result of the exemption, there was no formal requirement for ECMs in Pretoria to review family reunion refusals. In the file sample, inspectors found one refusal that had not been reviewed in which the ECO rejected wedding photographs included as evidence with the applications because they were not date-stamped or not taken by the applicant or sponsor, plus errors in the refusal notice, including reference to the sponsor as male when they were female. The Home Office acknowledged to inspectors that requiring date-stamped photographs was a “DM error”.
- 10.16** After inspectors had indicated which cases they intended to examine, Pretoria carried out its own reviews of 20 of the selected 75 cases ahead of the ICIBI visit. Of the 20, five had already had an ECM review. In two of the 20 cases (neither of which had had an ECM review) the refusal was reversed before the case was examined by inspectors. Despite these pre-emptive reviews, inspectors found an issue with some aspect of the decision in 13 of the 20 cases.

QATRO

- 10.17** Asylum Operations (Sheffield) did not use R2R. The rest of Asylum Operations used a quality assurance tool called QATRO, and at the time of this inspection Asylum Operations (Sheffield) had been trialling its use with family reunion cases and providing feedback and requesting amendments to the QATRO templates to meet their particular needs.
- 10.18** QATRO includes the facility to monitor the performance of each member of staff. New decision makers in Asylum Operations (not just those deciding family reunion applications) had 100% of their decisions checked until they were assessed to be consistently reaching the required standard, after which they were “signed off”, initially on decisions to grant and then on decisions to refuse. After this any checking would be on a dip sample basis. Meanwhile, all Leave Outside the Rules (LOTR) decisions are subject to check and approval.
- 10.19** At the time of this inspection, QATRO was being developed to allow managers to interrogate it and provide more effective feedback to decision makers, as well as to identify any trends. The Technical Specialists from the Asylum Operations team in Sheffield told inspectors that the new system would formalise the quota of cases to be quality assured/reviewed and ensure that all decision makers received sufficient feedback.
- 10.20** The Proviso records for the 101 Sheffield cases decided between 1 July 2018 and 30 June 2019 that were examined by inspectors contained no evidence of the decision having been quality assured.⁸³

83 At the factual accuracy stage, the Home Office stated that seven cases from the sample had had full ECM reviews.

Appeals data

10.21 There is no fee for a family reunion application and no restriction on the number of times a person may apply. Therefore, if an applicant is refused their simplest course of action is to reapply. The way that applications are recorded means that the Home Office was unable to provide any data on reapplications. Meanwhile, Home Office data for appeals lodged against family reunion refusals since 2016, where the application was made at a sub-Saharan VAC, is at Figure 8.

Figure 8: Appeals lodged against family reunion application refusals between 1 January 2016 and 30 September 2019, where the application was made at a sub-Saharan VAC, broken down by nationality and outcome

Nationality	Received	Allowed	Dismissed	Withdrawn	Total
Eritrea	115	58	32	7	213
Sudan	97	32	11	17	157
Somali	83	27	23	2	135
DRC	59	10	13	8	90
Zimbabwe	46	16	16	1	79
Uganda	21	9	8	0	38
Ethiopia	20	9	2	3	34
Kenya	5	2	1	1	9
Zambia	4	2	1	0	7
Syria	4	0	1	0	5
Burundi	2	1	0	1	4
Congo	2	2	0	0	4
Rwanda	2	0	2	0	4
South Africa	2	1	0	0	3
Angola	1	0	0	1	2
Malawi	1	0	0	0	1
Mauritius	1	0	0	0	1
Total	466	169	110	41	786

10.22 The data for appeals was heavily caveated. The Home Office explained that it included events “entered twice or more” for the same appeal “which could be as a result of human error or where an allowed appeal was appealed further to the Upper Tribunal”. It was unable to report on the “latest event” without significant work “outside of the reporting databases”. Nor was it able to provide inspectors with data for pre-action protocol letters received or Judicial Reviews in respect of family reunion applications.

10.23 Asylum Operations (Sheffield) did not have the means to link their decisions to appeals data, and therefore could not say how many appeals had been received, allowed, withdrawn or dismissed. The Home Office told inspectors:

“To rectify these issues, ICQAT⁸⁴ have circulated comms [sic] to all presenting officer units reiterating that the new FR case type should be used in all family reunion appeals. Consistent use of the FR case type by presenting officers and other relevant teams will

84 The International Casework Quality Assurance Team (ICQAT) reviews and quality assures visa decisions made overseas.

allow for accurate MI to be pulled regarding the status of refused cases, allowing for the FR casework/appeals feedback loop to be used to improve the quality of decision-making.”

Complaints data

- 10.24** The Home Office was unable to provide data for complaints received in relation family reunion applications as complaints data was recorded by type of complaint⁸⁵ not application category.
- 10.25** According to stakeholders, family reunion applicants were unlikely to make a complaint if refused as their focus would be on reapplying. Meanwhile, if granted they were unlikely to make a complaint about their experience of the process as they had the desired outcome. However, during file sampling inspectors identified that some applicants had made use of a free text field on the family reunion application form to detail issues they had had when completing the form, or explanations for answers to questions that were not relevant to a family reunion application. Inspectors found no evidence that these comments were monitored, collated or analysed.

⁸⁵ ‘Complaints guidance for UK Visas and Immigration, Immigration Enforcement and Border Force’ notes that “service” complaints “can relate to the actual service provided and/or the day-to-day operational policies behind them” and that they are usually categorised and recorded under headings such as: delay (for example, in delivery of a service); administrative/process error (failings in the process, administrative error, poor service or failure to meet service standards); poor communication (failure to keep customers informed; failure to answer correspondence, return calls etc); wrong information (provision of poor, misleading, inadequate or incorrect advice); lost documents (for example, passports or birth certificates submitted by customers that have been mislaid); queues; damage; customer care – physical environment (complaints relating to tangible, physical aspects of the service such as access, up to date equipment and accommodation as well as the ease and convenience with which it can be used); customer care – availability of service (loss of access to services, for example IT or other equipment breakdown); customer care – provision for minors (failure to take the particular needs of children into account); customer care – complaint handling (failure to respond to a complaint or dissatisfaction with the response). “Minor misconduct” complaints concern the professional conduct of Home Office staff and/or contactors that are not serious enough to warrant a formal investigation. If substantiated, they would not normally lead to discipline (misconduct) proceedings. Home Office guidance gives some examples: incivility, brusqueness, isolated instances of bad language, an officer’s refusal to identify themselves when asked, poor attitude, for example, being unhelpful, inattentive or obstructive. “Serious misconduct” complaints, if substantiated, could lead to serious or gross misconduct proceedings and formal management action such as written warnings, dismissal or other penalty. Home Office guidance refers to: criminal assault, criminal sexual assault, criminal theft, criminal fraud or corruption, racism or other discrimination, unfair treatment (for example, harassment), other unprofessional conduct (including any behaviour likely to bring the Home Office into disrepute; or which casts doubt on a person’s honesty, integrity or suitability to work for the Home Office).

11. Inspection findings: Ownership

ICIBI's 'Expectations'

11.1 The sixth of ICIBI's 'Expectations' is that:

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

Policy

Two policy teams

11.2 At the beginning of 2019, two teams, the Asylum Decisions Policy Team and the Asylum Strategy Team, were involved with family reunion policy. Both were within the Asylum and Family Policy Unit (AFPU).

11.3 In early 2019, responsibility for family reunion policy was moved from the Asylum Decisions Policy Team to the Asylum Strategy Team. The latter team was headed by a Grade 7 and comprised two SEOs and two HEOs. The inspection team was told that part of the reason for the move, which was "gradual and is embryonic", was to "think holistically about this route and implications for policy development across the asylum and resettlement system".

11.4 In August 2019, inspectors were told that some family reunion policy work remained with the Asylum Decisions Policy Team, based in Manchester, primarily to ensure the onshoring of family reunion decision-making went smoothly, and that Asylum Operations (Sheffield) continued to have a close working relationship with the Asylum Decisions Policy Team on, for example, safeguarding issues. However, technical queries on the operationalisation of the policy had moved, for the most part, to the Asylum Strategy Team.

- 11.5** Meanwhile, an SEO in UKVI Central Operations acted as the point of contact for policy advice on family reunion for decision makers in Pretoria.
- 11.6** Inspectors asked for details of work on the future direction of family reunion policy. The Asylum Decision Making Policy Team said that it had had the aim of reviewing family reunion policy every 12 months. But, until the two Private Members' Bills (which had fallen in October 2019 when the 2017-19 Parliamentary session ended) were concluded, there had been nothing specifically to review. However, the team had contributed to the design of the new online visa application form.
- 11.7** The Asylum and Family Policy Team told inspectors that, as well as their work on the Private Members' Bills, it was "looking at possible amendments we may receive to the FR policy through the passage of the Immigration Bill, therefore developing a concession strategy to manage this". The Home Office did not share any details with inspectors.

Operations

Two operational directorates

- 11.8** Since 2018, two UKVI directorates have shared responsibility for deciding family reunion applications. The Visas and Citizenship (V&C) directorate is responsible for UKVI's Decision Making Centres (DMCs) in the UK and overseas. It therefore had oversight of all family reunion applications while these were decided at DMCs by Entry Clearance Officers (ECOs). As family reunion applications transferred from DMCs to Asylum Operations (Sheffield), this responsibility passed to the Immigration and Protection directorate. Meanwhile, V&C retained responsibility for family reunion decision-making at the Pretoria DMC.
- 11.9** Inspectors requested details of any discussion of family reunion at UKVI's Visa Section Board meetings and were told that "Family Reunion was specifically discussed at the Consolidation Board in May 2018".⁸⁶ The briefing pack for that meeting noted: "Asylum Casework have agreed to casework all Family Reunion applications lodged overseas, using Proviso in Sheffield. The team are being trained and will be ready to casework from mid-May." It described a number of accommodation and connectivity issues that Asylum Operations needed to resolve. "Only once the team have relocated can new FR applications from Pakistan VACs; and FR applications from Istanbul and Amman be re-routed. There will then be a further rollout programme picking up Pretoria's FR work as other net migration is consolidated and smaller numbers of FR applications globally."
- 11.10** Meanwhile, the 'Minutes and action points' from this meeting simply noted "Asylum team to begin working Family Reunion stock of current Sheffield cases (Pakistan) agreed". This was recorded as "Decision". The columns for "Owner" and "Due date" were left blank.
- 11.11** In late 2018/early 2019, when all other family reunion applications were being on-shored and transferred to Asylum Operations (Sheffield), the latter's senior management understood that applications received in Khartoum would shortly follow suit. However, by the time of this inspection, there was an acceptance by those most closely involved that, because the supporting evidence provided with Khartoum applications was paper-based, processing of

⁸⁶ UKVI (V&C) established the [Network] Consolidation Board in November 2017 to provide governance for the onshoring of visa decision-making from overseas DMCs to Sheffield and Croydon. It's Terms of Reference included agreeing specific proposals for re-routing visa workstreams, reviewing and addressing risks and contingency plans, and the principle that when non-net migration work was moved out of a DMC the first consideration should be whether it can be routed to the UK.

these applications would remain with the Pretoria DMC for the foreseeable future and this meant giving more thought to how the two units should interact.

11.12 Meanwhile, managers in Pretoria told inspectors:

“For us, it has always been “Khartoum is going”. We never thought it would still be there. We should be a bit more consistent with Sheffield. We could do more work on this around decision quality, especially refusal notices, and probably need to be more aligned.”

11.13 Senior management for Asylum Operations told inspectors that some conversations had taken place with UKVI Central Operations regarding the onshoring of the Khartoum family reunion applications, but without reaching any decisions. From an Asylum Operations’ perspective, there were concerns about the capacity of the Sheffield team to deal with paper-based applications, since all of its work was electronic.

Operational management

11.14 The Pretoria DMC has an SEO Operations Manager, with six ECMs, plus ten ECOs trained to decide settlement applications, which include family reunion applications. A Regional Manager (Grade 7) has oversight of the DMC and reports to a V&C SCS based in Sheffield.

11.15 The Asylum Operations team in Sheffield worked to an SEO Senior Caseworker, with a second SEO Operations Manager based in Solihull. The SEOs reported to a Grade 6, who had responsibility for a number of casework hubs around the UK. The Grade 6 had no concerns about the team not having a Grade 7 manager as the two SEOs were empowered to manage the process.

11.16 The Grade 6 had had little direct input into the design of the on-shored family reunion process and was largely content with the team’s productivity. With regard to decision quality, the Grade 6 told inspectors that they had “enough trust and faith in the team that they have put the quality assurance in place for a robust system”.

11.17 Meanwhile, staff in Sheffield felt that because family reunion was a relatively small part of their responsibilities, senior managers were not closely engaged with what was happening with family reunion casework. There had been “rumours” that the work would be moved from the Sheffield team and staff were concerned about their futures. A lack of clear communications about this had begun to impact morale and contribute to a sense that their work was not appreciated.

11.18 Asylum Operations’ senior management acknowledged the need for better staff communications. They were keen to resolve what to do with the Khartoum applications and whether administrative support should be relocated from Solihull to Sheffield, before considering where the work should sit in the longer-term.

Management information

11.19 Inspectors found significant gaps in the Management Information (MI) collected by Asylum Operations and by Pretoria DMC, raising questions about the Home Office’s ability to reach informed decisions about family reunion policy and operational practice. Some of the

gaps were the result of poor systems, others were simple failures to keep a proper record. For example:

- there was no reliable data for reapplications
- the number of Indefinite Leave to Remain (ILR) applications made by successful family reunion sponsors/applicants was not retrievable as records were not person-centric
- grants of Leave Outside the Rules (LOTR) with recourse to public funds (the minority) were not recorded
- the number of applications for family reunion related to refugees resettled under the Vulnerable Persons Resettlement Scheme (VPRS) was not recorded
- Asylum Operations (Sheffield) did not know how many safeguarding referrals it had made
- the numbers using alternative family reunification routes was not known

- 11.20** Where information was collected it was primarily for local use, with a focus on meeting performance targets set for decision-making. This had helped to show that the original staffing level at Sheffield was too low. Meanwhile, during the inspection, a ‘time and motion’ study was underway to understand how long refusal and grant notices should take.
- 11.21** Asylum Operations senior managers told inspectors that the volumes of family reunion applications were too small to merit specific attention at senior leadership team (SLT) meetings. Family reunion had not appeared as an agenda item for any SLT meeting, although some references were made to it in minutes. In February 2019, for example, the minutes referred to the fact the Sheffield team was meeting its family reunion target.
- 11.22** In Pretoria, some analysis of family reunion decisions had been done, for example comparing refusal rates before and after new local guidance had been issued, though not, it seemed, since May 2018. The robustness of the analysis was unclear, however, since the evidence provided to inspectors was caveated: “These stats are only indicative of the work completed and are to be used to facilitate discussion and explore better ways of working, they should not be published more widely or used for any other purpose”.
- 11.23** Meanwhile, the Asylum Strategy Team told inspectors that it was in the early stages of capturing and analysing relevant MI from Asylum Operations (Sheffield) to “monitor and track the effectiveness of our policy, ensuring it is delivering the required intent and operating as it should”.
- 11.24** The Technical Specialists in Sheffield talked to policy colleagues to ensure that the team’s decision-making was consistent. However, it was unclear how or when an operational issue might trigger an amendment to the guidance. For example, inspectors were told that a number of queries had arisen on the issue of sole parental responsibility.⁸⁷ Inspectors were told that a policy response was being formalised, but no interim guidance was available to decision makers and the gap was being bridged by the Senior Caseworker.
- 11.25** The Asylum Strategy Team was not aware of any differences in the way the guidance was being “operationalised” in Pretoria and in Sheffield. However, any family reunion queries from Pretoria would be directed in the first instance to UKVI Central Operations rather than to the Asylum and Family Policy Team, so the latter would not automatically be sighted on any issues.

⁸⁷ Where a parent was seeking to bring a child to the UK but the permission could not (due to death/divorce/separation) or would not be sought from the other parent.

Resourcing

- 11.26** Senior management believed that there were “gains to be made in productivity” in family reunion and in asylum work in Sheffield. Local management told inspectors that it would ideally like to have 10 to 11 decision makers (DMs) working on family reunion applications, but it was confident that the Sheffield team of eight ring-fenced DMs was could manage the current workload. If there were a “surge” the team could cope, provided there was an acceptance that some Service Standards would be missed. If more DMs were needed, the family reunion team could, in principle, be supplemented by asylum caseworkers. However, in practice, the whole asylum system was under some pressure and resources might not be released.
- 11.27** The Sheffield team had looked to understand if there were trends or patterns in application numbers, for example a correlation between grants of refugee status and family reunion applications, but the data was insufficient to inform staffing requirements.
- 11.28** Managers in Sheffield believed that the team had weathered the impact of onshoring well. However, interviews with staff revealed that the administrative functions at the front and back ends of the process were experiencing problems. For example, administrative staff in Solihull had not been provided with access to Proviso, which meant they were reliant on a bulk upload from Proviso to CRS and CID of new family reunion applications to start the process. If a VAC had not uploaded all the documents with the application, the Solihull team would need to add them manually to the workflow spreadsheet. One manager told inspectors:
- “It is the support streams around the FR process [that are] feeling the strain. The admin teams are feeling the pressure. This also includes the technical staff, who are picking up some of the issues. In essence, we need more support staff to balance out the process.”
- 11.29** Pretoria DMC created the Khartoum team by seeking ‘expressions of interest’⁸⁸ from the ECOs at post. Managers and staff in Pretoria indicated that the team was resourced sufficiently. It dealt with all categories of visa application from Khartoum, and staff told inspectors that family reunion applications formed only a very small proportion of their work. However, they said that UKVI’s onshoring strategy had “taken away the ‘easy cases’ and left us with a lot of challenging applications” but “our expertise allows us to concentrate on the applications we have been left with and we intend to use this to help improve the process”.
- 11.30** Prior to the onshoring of the non-Khartoum applications, the family reunion process was overseen by an ECM family reunion lead. Following staff moves and the creation of the Khartoum team this role had not been reallocated and the Home Office told inspectors family reunion decisions could be reviewed by any of the ECMs.

Understanding and mitigating risk

- 11.31** Inspectors requested the risk registers for Asylum Operations (Sheffield) and for the Pretoria DMC. For Pretoria, inspectors were provided with a copy of the Africa Region Risk Register. This gave an overview of possible risks, including corruption, terrorism and fuel shortages (preventing local staff from getting to work), and outlined mitigating actions and contingency plans for each risk. The risks were not RAG-rated, nor was it stated whether the risk was increasing, stable or reducing. The Risk Register did not refer to ‘family reunion’ or to visa decision-making in general.

⁸⁸ Expressions of Interest (EOI) is an internal recruitment process where roles are advertised within directorates (instead of on ‘Civil Service Jobs’) to cover a short-term resourcing gap quickly. Posts would normally be advertised on level transfer or Temporary Cover Allowance (TCA) for a period of up to 12 months. Applicants are usually asked to submit a short statement outlining their suitability.

- 11.32** Inspectors found that some listed mitigations did not work in practice. For example, the Register noted as mitigations against the risk of corruption that commercial partners’ processes would be audited, that Entry Clearance Managers (ECMs) would undertake mandatory reviews of decisions each day, and that all allegations of corruption would be investigated. When inspectors reviewed the performance data from the commercial partners, it was clear that the Home Office was not involved in investigations by its commercial partners into allegations of corruption by their staff, and was therefore unable to say whether the process was thorough and robust.⁸⁹
- 11.33** Asylum Operations (Sheffield) did not have its own risk register. The Risk Register for Asylum Operations as a whole covered all areas of its business. It described the risks, their causes and impacts or effects, along with mitigating actions and contingency plans. The risks were RAG-rated to show their severity.

Visa Application Centres

- 11.34** After submitting an online application, family reunion applicants are required to visit a Visa Application Centre (VAC) to register their biometrics.⁹⁰ Between 2016 and 2019, the VACs in Khartoum (Sudan), Addis Ababa (Ethiopia) and Kampala (Uganda) received the largest number of family reunion applicants from sub-Saharan Africa – see Figure 4.
- 11.35** Unlike other VACs, which are managed by commercial contractors,⁹¹ the Khartoum VAC is staffed by locally engaged UKVI staff employed on Foreign and Commonwealth terms and is located in the British Embassy.⁹² Applicants provide the Khartoum VAC with hard copies of their supporting documents and evidence, which are couriered to Pretoria for decisions. Inspectors were told in August 2019 that due to recent civil unrest in Sudan the opening hours had been restricted, which had resulted in a decline in the number of applications received.

Figure 9: Family reunion applications received at Khartoum, Addis Ababa and Kampala VACs 2016-2019 (percentage of family reunion applications made at all sub-Saharan VACs)

VAC	2016	2017	2018	2019 to 30 September 2019
Khartoum	1,212 (49%)	1,477 (49%)	1,650 (46%)	1,019 (43%)
Addis Ababa	666 (27%)	719 (24%)	837 (23%)	687 (29%)
Kampala	283 (11%)	468 (16%)	700 (20%)	460 (20%)
Other sub-Saharan Africa	322 (13%)	331 (11%)	389 (11%)	184 (8%)
	2,483	2,995	3,576	2,350

89 At the factual accuracy stage, the Home Office stated that: “Commercial Partners (CPs) undertake their own misconduct investigations and inform us via an incident report. For cases where there are corruption concerns, UKVI refer to Professional Standards Unit to check whether either they, or Anti-Corruption Unit, wish to undertake the investigation. Throughout the course of a gross misconduct investigation, UKVI are in contact with the CP.”

90 For family reunion applicants, the process is free, including use of the Document Scanning Assistance and access to a User Pays VAC, both usually premium services provided by VACs.

91 Two commercial suppliers, VFS Global and Teleperformance, manage a global network of over 230 overseas VACs on behalf of UKVI.

92 Commercial contractors are not able to operate in Sudan.

11.36 Stakeholders highlighted a number of concerns about VACs and their treatment of family reunion applicants:

- VAC locations, which primarily reflect demand, meant that vulnerable applicants have to make difficult, dangerous and expensive journeys, in some cases crossing into another country, possibly more than once. Stakeholders would therefore like the Home Office to permit applicants to submit their biometrics only when a family reunion visa is issued. One stakeholder noted that of the 35 families (comprising 11 nationalities) who had sought their assistance between December 2016 and May 2017, seven had had to make their application at a VAC in a different country from the one in which they were living
- VAC staff failed to understand that family reunion applicants, who were often themselves refugees or internally displaced, may not possess travel documents, and some had been denied access to the VAC on this basis, which was a particular issue for child applicants and other vulnerable individuals who may have travelled significant distances
- Applicants were being incorrectly charged for services, either because VAC staff were unclear that family reunion applications were free of charge or because corrupt staff were asking for payment in order to expedite the process. One stakeholder commented: “Some of the visa centres charge an entry fee to access the building – for example in Sierra Leone it is \$74 per applicant, while some of the Turkish visa centres charge £59”. Others referred to the limited availability of free appointments to enable applicants to provide their biometrics, which meant applicants were either having to wait a long time before they could submit their applications or were having to pay for appointments. Stakeholders believed this had become a particular issue since March 2019 when control of the appointments system transferred from the Home Office to the commercial providers.
- VACs were inconsistent in their treatment of family reunion applicants, indicating there was no standard process for these applicants, and VAC staff were providing misleading or incorrect information to family reunion applicants, despite the Home Office contract with the providers being clear that VAC staff must not comment on documents submitted
- VACs were failing to notify applicants that their documents were ready for collection, which resulted in successful applicants having a shorter timeframe to make travel plans and, in some cases, not being able to do so before their 30-day visa expired
- There was no opportunity for direct contact between applicants (and/or their legal representatives) and the VACs. Contact was available only via the UKVI (paid for) helpline

11.37 Stakeholders provided the ICIBI with a number of case studies to illustrate some of these concerns – see Case Studies 5 and 6.

Case study 5: Dangerous journey to reach a VAC

The sponsor wanted to reunite with her young son, who was living in Burundi. The closest VAC was in Rwanda, meaning that the boy had to cross the border. The boy and his guardian were intercepted by armed police and taken to a police station. The police threatened to shoot the boy and confiscated his papers.

The sponsor contacted an NGO who were able to get in touch with the out of hours emergency UNHCR team. The latter sent an advocate to negotiate the boy’s release, which was eventually agreed. However, none of his documents were returned.

Case study 6: Minors unable to travel to VAC unaccompanied

An unaccompanied teenage boy living in a refugee camp in Ethiopia was asked to travel to Addis Ababa to lodge his refugee family reunion application. However, camp rules meant he was not allowed to leave the camp without an accompanying adult, which was difficult to arrange. To move on the application process and prevent him having to make this journey multiple times, the NGO had to liaise with UNHCR in the camp to try to get DNA and TB tests done there.

Another unaccompanied teenage boy living in the same refugee camp had faced the same problems. In his case, it took six months to find a suitable adult to accompany him to Addis Ababa, and the cost of the journey caused financial hardship for the boy and his family in the UK.

- 11.38** Inspectors asked the Home Office for copies of any instructions or guidance provided to VACs in relation to family reunion application supporting documents. The Home Office provided a UKVI ‘document checklist’ which had to be signed by the applicant. There was no Home Office guidance for VAC staff and no training provided specific to family reunion applicants.
- 11.39** In Pretoria, inspectors were told that there had been issues with VACs in sub-Saharan Africa, including cases of corruption and the behaviour of VAC security staff, which had led to significant staff turnover in some locations. Inspectors were told that the VAC contract was “opaque” concerning what the contractor was required to report to the Home Office, for example, with regard to complaints and that it “needs updating and needs to reflect reality”.⁹³
- 11.40** The Home Office provided inspectors with a copy of the commercial contractor’s ‘fraud log’, showing the number of corruption investigations carried out by VACs since 2016. The log recorded complaints made by applicants and their legal representatives alleging that VAC staff had asked for and received money to facilitate applications. It also recorded the actions taken. However, the standard of record keeping was patchy and generally lacked detail.
- 11.41** The Home Office conducted periodic risk-based inspections of the VACs. ‘Low’ and ‘medium-risk’ VACs should be inspected every 18 months, ‘high-risk’ VACs every 12 months, and ‘very high-risk’ VACs every six months. The inspection template covered issues such as building security and the “customer journey”, for example, waiting times before an applicant was seen by an agent, and a check that VAC staff have complied with the requirement annually to complete ‘imposter’ training (a presentation available online or delivered in person by UKVI). The template made no reference to the identification or safeguarding of vulnerable individuals.
- 11.42** It was therefore difficult for the Home Office to know whether family reunion applicants were experiencing particular problems accessing VACs. Where there were issues these were often identified and resolved on “firefighting” basis through informal networking between NGOs and managers in Pretoria and Sheffield. Inspectors found no evidence that these issues were being collated and fed back to the relevant Home Office Commercial teams, but VAC supplier performance against the Key Performance Indicators (KPIs) set out in the contract was monitored in the region and fed back.

93 In parallel with this inspection, ICIBI carried out ‘An inspection of the Home Office’s Network Consolidation Programme and the “onshoring” of visa processing and decision-making to the UK (September 2018 – August 2019)’. The inspection report was sent to the Home Secretary on 23 September 2019. It recommended *inter alia* that the Home Office should “Publish on GOV.UK service standards and performance data for the VACs (in addition to anything published by the commercial partners themselves), covering availability of appointments, average waiting times, and any other factors affecting the “customer experience”, together with any agreed improvement plans for particular VACs.”

- 11.43** Inspectors reviewed the service credits applied to the VAC suppliers. For African VACs, between January and July 2019, the most common reason for a service credit was a delay in document collection and delivery between the VAC and the DMC, with the Nairobi, Abidjan and Cape Town VACs most often penalised.
- 11.44** Inspectors asked the Home Office about stakeholders' concerns that family reunion applicants were being wrongfully charged for services by VACs. The Home Office said that it could not provide any data for refunds paid to family reunion applicants for charges for services that should have been provided for free, but pointed out that some applicants may have requested and been happy to pay for a charged-for service.
- 11.45** Stakeholders told inspectors that Addis Ababa and Nairobi VACs had reduced the number of free appointments since taking control of the appointments system in March 2019 in order to generate more revenue by encouraging applicants to book the available (charged for) slots. The Home Office countered that the commercial partner was contracted to ensure that a standard free appointment was available within five days of a person applying and that "performance data for the last 12 months indicates that UKVI did not fall out of service standard for Addis Ababa or Nairobi". The Home Office did not hold data on how many free appointments were available on each day.

Pretoria VAC

- 11.46** In August 2019 inspectors visited the Pretoria VAC. Visitors had to pass through security checks: to enter the car park; at the reception desk of the building housing the VAC; at the entrance to the VAC itself; at a counter within the VAC between the waiting area and the agents' desks. The collection of biometrics was recorded on CCTV and provided to the Home Office's integrity manager on a regular basis. It was also available to Home Office decision-making staff, if required.
- 11.47** Inspectors observed a good working relationship between the VAC staff and the local Home Office senior manager. VAC staff told inspectors that they had received relevant training, for example 'imposter training', and were confident in applying it. They said they rarely received family reunion applications.

Khartoum VAC

- 11.48** Staff at the UKVI Khartoum VAC told inspectors that they made an initial assessment of family reunion applicants, for example, assessing the relationship with the individual who had brought them to the VAC or exploring suspicions about poor language skills, and made notes on the front of the application form for the benefit of the DMs in Pretoria. Staff at the Khartoum VAC reported that lines of communication with the Pretoria DMC were good, enabling them, for instance, to highlight issues when different entry clearance dates had been provided to a family group, which happened "two or three times a month". They described Pretoria as "very responsive".
- 11.49** Inspectors were told that locally-engaged VAC staff were able to make use of their knowledge of geographical and cultural norms when speaking to applicants. However, they would welcome more training, for example on identifying imposters, and better direction from Pretoria, preferably in the form of a checklist of questions to ask. Meanwhile, records were being kept on the interpreters used, with observations on the quality of the interpretation and any concerns.

11.50 The Khartoum VAC's performance was monitored and managed in Pretoria, with monthly records of data entry, incidents that affected operations and all service failures. Performance data for the Khartoum VAC showed that the most common issue was "data error". In March 2019, for example, there were four instances where the Khartoum VAC had entered the family name incorrectly and two where biometric data was attached to the wrong application.

Internal and external communication

- 11.51** During the process of onshoring family reunion applications, Pretoria provided risk profiles and handover notes to colleagues in Sheffield and there were "dial ins" between Sheffield and global staff. However, inspectors saw little evidence of engagement between Pretoria and Sheffield since then regarding their respective family reunion casework. Managers in Pretoria commented: "The engagement is by no means perfect. We don't do monthly calls. But, if there is stuff that we see that might be relevant, then we would flag that with them".
- 11.52** An SEO in UKVI Central Operations in Croydon provided a link between the Pretoria DMC and Asylum Operations (Sheffield) on family reunion-related policy and operational queries.
- 11.53** Stakeholders told inspectors that communication with the Sheffield team was open and constructive. Staff in Sheffield were clear about the value of stakeholder engagement, commenting "The more we can broaden our engagement with stakeholders, the better opportunities there are for knowledge development". They reported that "NGOs contact us on a weekly basis usually. Some queries are more operational, for example, an issue with the online form. If they have an issue with a VAC, we will contact the VAC".
- 11.54** Staff in Pretoria rarely had direct contact with UK stakeholders, and did not participate in any fora, but referred to a "correspondence email [address]" that some stakeholders used to raise concerns or queries. However, managers did engage with local and regional organisations, such as the International Organisation for Migration, and the 5M representatives based in the region.
- 11.55** Home Office policy staff had some external stakeholder engagement. However, the circle of stakeholders was small (fewer than 10) and contact was irregular. The Asylum Strategy Team told inspectors that, for example, it had had phone calls with British Red Cross, UNHCR, Unicef, Refugee Council, and Amnesty; had held three meetings in five months with two of these stakeholders. The team also referred to Home Office asylum stakeholder forums where family reunion might be discussed, and inspectors were told that there had been discussions about establishing a family reunion forum.

Engagement with other Government Departments and Agencies

- 11.56** Inspectors asked the Home Office for details of any information sharing with other government departments and agencies regarding successful family reunion applicants, and for any data held by the Home Office about post-arrival support for the families.
- 11.57** Stakeholders had flagged concerns about applicants having difficulties accessing Universal Credit, housing and healthcare when they arrived in the UK and advocated greater monitoring of reunited families. One commented on the lack of communication from the Home Office to local authorities when a family reunion visa had been issued. Typically, it was left to NGOs to inform the local authority. Stakeholders wanted the Home Office to do more, specifically:

- to request a National Insurance Number (NINO) as soon as the family reunion visa is granted, rather than wait for successful applicants to apply on arrival as now and suffer significant delays in being able to apply for benefit payments, which often means families having to survive on single-person benefits for an extended period
- to issue British Residence Permit (BRP) cards (with the NINO details) on arrival to assist families to access the necessary services quickly
- to inform the relevant local authority of issued family reunion visas, to give Homelessness/Housing Options services the chance to work with individuals in the UK to source suitable accommodation
- to extend the period of validity on family reunion visas, to allow more preparation time for sponsors and for families

11.58 The Home Office told inspectors that it did not hold any data about post-arrival support for family reunion cases:

“we are not aware of any processes currently in place which manage family reunion cases after a decision to issue has been made ... the assessment of the financial status of a sponsor or applicant does not form part of the decision-making process for applications made under Part 11 of the Rules, and so we are unable to confirm how many family reunion applicants, who have been granted a visa, approach the DWP or local authority for support after arriving in the UK.”

11.59 In June 2019, the Home Office published its updated Indicators of Integration Framework.⁹⁴ The Framework lists ‘Number of families being reunited through family reunion procedures’ amongst the ‘Outcome indicators’ of ‘Stability’, one of five ‘Facilitators’ of integration (the others being Language, Culture, Digital Skills and Safety). The document explains that “research and practice” have confirmed that a sense of “social stability” (along with one of “personal safety”) allows people “to engage with services and with other people in order to establish their lives and to integrate”. Stakeholders have also pointed out that “family reunion is well documented as a facilitator of integration for refugees in the UK”.⁹⁵

11.60 Inspectors asked Resettlement, Asylum Support and Integration (RASI), which has overall responsibility for refugee integration, to what extent the Home Office’s integration strategy had influenced family reunion policy and procedures. They were told that family members arriving in the UK on a family reunion visa did not receive any special attention from RASI’s Integration and Vulnerability unit as they were eligible for the same services and support as their refugee sponsor. For integration purposes, Home Office data did not distinguish between successful asylum claimants and their reunited families.

11.61 Inspectors asked whether separate consideration had been given to the small numbers of family reunion applicants granted leave outside the rules (LOTR) with no recourse to public funds (NRPF) and therefore without access to the same services and support as their sponsor. According to the data provided to inspectors, in 2018 there had been 36 grants of LOTR with NRPF to family reunion applicants and, in 2019, 142. RASI told inspectors that it had not separately considered this cohort.

⁹⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/812889/home-office-indicators-of-integration-framework-2019-horr109.pdf

⁹⁵ Red Cross Families Together, <https://www.redcross.org.uk/about-us/what-we-do/how-we-support-refugees/families-together##>

Annex A: 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 his 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 Her Majesty's Chief Inspector of Prisons or Her Majesty's Inspectors of Constabulary (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 him 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 he has committed to do within eight 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 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 B: 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

We are grateful to the Home Office for the cooperation and assistance received during this inspection and appreciate the contributions from external stakeholders.

Inspection Team

Lead Inspector:	Caroline Parkes
Project Manager:	Hollie Savjani
Inspector:	Joy Worrell

