



# An inspection of the Home Office's Afghan resettlement schemes

October 2022 – April 2023

**David Neal**

Independent Chief Inspector of  
Borders and Immigration



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# Foreword

Afghan relocation and resettlement schemes are two of the Home Office safe and legal routes. The schemes are more complex than other immigration routes, as eligibility is determined by other government departments and the UNHCR. This inspection focused on the aspects of the routes that fall within my inspection remit in relation to Home Office decision making.

Matters of concern came to light during this inspection. In particular, the Home Office's pause in the issuing of entry clearances to successful Afghan relocation and resettlement applicants. This pause was initially made because of the cancellation of charter flights due to a lack of suitable UK accommodation but continued following direction that Afghan cohorts were not to be accommodated in bridging hotels. This decision is not contained in published rules or policy. This is not acceptable.

It is concerning that despite multiple opportunities to do so, Home Office officials did not inform me or my inspectors of the decision to pause until early March 2023 – three and a half months later.

In common with other inspections, I have again found Home Office data to be poor. The emergency nature of the response to events in Kabul means that data will be imperfect. However, the Home Office needs to work considerably harder at preparing itself to respond to such crisis events. The Home Office needs to improve on a basic 'best effort' response and get 'match fit' to play its part in our collective response to events in an uncertain world. Eighteen months on from Op PITTING, the Home Office does not have a single accurate dataset and, on occasions, has resorted to contacting arrivals by phone to establish their immigration status, and inspectors even found that the Home Office granted indefinite permission to stay to British citizens in error. This is not good enough.

More positively, the inspection found that the Home Office updated their equality impact assessments (EIAs) as the Afghan Relocations and Assistance Policy (ARAP) had evolved, and where assessments were in place, they were generally of good quality.

Home Office engagement and communication with partners was good. My inspectors found that all parties commented on the value of these relationships, which were constructive and focused on providing a joint response. Conversely, engagement with applicants is poor, particularly those applying from overseas. It cannot be right, for example, for the Home Office to fail to inform applicants that they had been switched to a different resettlement scheme.

This report makes nine recommendations and was sent to the Home Secretary on 9 June 2023.



David Neal

Independent Chief Inspector of Borders and Immigration



# 1. Key findings

## Process

- 1.1** The processing of applications to the Afghan Relocations and Assistance Policy (ARAP) and Afghan Citizens Resettlement Scheme (ACRS) is a two-step process:
- Eligibility is confirmed by the Ministry of Defence (MOD), Foreign, Commonwealth and Development Office (FCDO) or United Nations High Commissioner for Refugees (UNHCR). In a small number of cases, eligibility is confirmed by a different department, such as the National Crime Agency (NCA).
  - The Home Office considers suitability.<sup>1</sup>
- 1.2** The Joint Afghan Casework Unit (JACU) in the Home Office processes ARAP and ACRS applications. Within JACU there are two distinct teams: the JACU out-of-country (OOC) team and the JACU in-country (IC) team. The two teams operate in silos, with little evidence of sharing learning and expertise. The Home Office UNHCR team processes ACRS Pathway 2 applications.<sup>2</sup>
- 1.3** All teams involved in the processing of ARAP and ACRS applications are sufficiently resourced. Staff can challenge their managers and feel supported.
- 1.4** The Home Office does not have an effective data collection strategy that can be utilised in an emergency evacuation situation. The Home Office's response to the Taliban taking over Afghanistan did not allow for accurate person-centric data to be recorded for arrivals, and for decisions to be quality assured.
- 1.5** There is little evidence of assurance of the processing of ARAP, ACRS Pathway 1 and ACRS Pathway 3 applications by the JACU. Assurance guidance documents are not utilised consistently to record and assess decision quality and data accuracy. Home Office managers rely heavily on checks made by other organisations, to the detriment of the Home Office's own assurance process.
- 1.6** There is poor governance of the processing of applications to both schemes. There are few qualitative or quantitative targets or measures to monitor performance. Some teams have no targets at all.
- 1.7** While the JACU IC team has a case allocation process, the JACU OOC team does not have any formal triage process to assess cases, or a case allocation process to manage workflow.

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<sup>1</sup> This is a consideration of whether the applicant should be refused entry using a set of 'general grounds for refusal', for example grounds of deception, criminality, national security, or adverse immigration history.

<sup>2</sup> In its factual accuracy response, the Home Office stated: "This was factually accurate at the time of the inspection. The teams have now combined and are called the Afghan and Family Reunion Casework."

- 1.8** Managers in the Home Office UNHCR team must review every application decided by decision makers that are ‘unaccredited’.<sup>3</sup> At the time of this inspection, just one of eight staff members was accredited, despite staff being described as ‘experienced’. The main task for managers each day is reviewing decisions, and the Home Office could more usefully redeploy these managers to other tasks if more caseworkers were accredited.
- 1.9** The Home Office’s ability to process cases efficiently has been impacted by poor IT systems. Home Office managers did not request access to the Casework Information Database (CID) for some caseworkers. This meant caseworkers had to telephone Operation PITTING evacuees, including British citizens, to confirm their immigration status. IT issues have resulted in some applications made from within the UK being severely delayed, and some applications are still unresolved several months after they were submitted.
- 1.10** There are some referrals that do not appear to fit the policy intent of ACRS, as some involve individuals who have never been to Afghanistan or have lived outside Afghanistan for decades and were not affected by the UK withdrawal. Other resettlement schemes may be more appropriate for such individuals, particularly as there is a cap on the number of ACRS applicants.<sup>4</sup>
- 1.11** There are no UK visa application centres in Afghanistan. Applicants must travel to a third country to submit their biometrics. This requirement may adversely affect the ability of some cohorts of applicant, such as women and girls, or those in hiding, to access the application process. In a High Court ruling, the Home Office averred that it would consider exercising discretion to waive or delay the requirement to enrol biometrics prior to an application.<sup>5</sup> However, there is no formal biometric waiver process in place for Afghan resettlement schemes, and no waivers have been requested or issued according to data provided by the Home Office.

## The pause on processing entry clearance applications and ‘flipping’ cases

- 1.12** In late November 2022, Home Office operational managers made the decision to pause the issuance of entry clearances to applicants who otherwise met the requirements of the ARAP scheme or ACRS policy. This decision was taken because of a lack of non-hotel accommodation for Afghan resettlement cohorts. Applicants who did not meet the requirements of the ARAP scheme or ACRS policy were served with a refusal notice.
- 1.13** The pause was sustained following a political directive in December 2022 to end the use of bridging hotels accommodation for newly arrived Afghan resettlement cohorts.
- 1.14** The Home Office failed to communicate or publish its policy regarding the pausing of entry clearance processing for Afghan resettlement cohorts. The Home Office did not communicate the pause to inspectors until 7 March 2023.
- 1.15** In this regard, applicants who otherwise meet the requirements of the Rules or policy are not granted an entry clearance based on an unpublished Home Office policy. Applicants

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<sup>3</sup> The Home Office operates a process whereby caseworkers can be ‘accredited’ to certify their own casework decisions without reference to a manager. Accreditation requires a caseworker to demonstrate that they have consistently delivered a level of decision making to the expected standard.

<sup>4</sup> In its factual accuracy response, the Home Office stated: “Although there is no annual upper limit for UKRS, submissions remain closed so the use of ACRS Pathway 2 for new Afghan refugees was to enable new submissions to be made.”

<sup>5</sup> R (S & Anor) v Secretary of State for the Home Department & Ors <https://www.bailii.org/ew/cases/EWHC/Admin/2022/1402.html>

are therefore unknowingly failing to meet accommodation requirements which are not stipulated in either the Rules or policy. Home Office operation of an unpublished or 'secret' policy contrary to its published policy has been found to be unlawful in the past. The lack of transparency regarding this policy may also undermine public confidence in Afghan resettlement schemes.

- 1.16** In mid-2022, following a UNHCR recommendation, the Home Office unilaterally moved 187 Afghan UKRS applicants to ACRS without their knowledge or consent and without informing the applicants affected. No records were made on their electronic case records regarding the reasons for this change. Besides an inherent lack of transparency regarding this policy decision, this may hinder migrants from seeking informed independent legal advice.

## Data

- 1.17** It was apparent to inspectors that the way data was recorded during Operation PITTING had a lasting impact on the delivery of services under the Afghan resettlement schemes, particularly for the Operation PITTING cohort and in-country casework teams. Poor data quality had led to issues such as the granting of indefinite permission to stay to British citizens, and errors in the spelling of names and dates of birth on biometric residence permits.
- 1.18** Inspectors noted the efforts of the Home Office and its caseworkers, especially considering the need to deliver a crisis response. Staff at all levels worked in difficult circumstances, finding their own ways to work with poor data, while maintaining a clear focus on their work. However, many of these challenges could be mitigated by having a crisis plan in place and, therefore, more preparedness.
- 1.19** Efforts to mitigate the poor quality and patchiness of the data have been varied. The Military Aid to the Civil Authorities<sup>6</sup> exercise, for example, simply gave the Home Office another inaccurate dataset to manage on top of the data it already had, while initiatives such as the use of hotel-based Home Office Liaison Officers to refine and capture data on the ground have been more successful.
- 1.20** Inspectors found areas of risk that the Home Office needs to manage closely, particularly around the hard-to-reach cohort, the consequences of which might not be fully known for several years. Work to cleanse data will, in part, help mitigate this risk, but inspectors were not assured that sufficient resource or focus is currently dedicated to working through data to reach a single version of the truth.
- 1.21** Finally, based on the evidence of this inspection, the Home Office appears not to be able to provide and share data that is fully accurate, as it might otherwise do through its migration statistics.<sup>7</sup>

## Equality and diversity

- 1.22** By the Home Office's own admission, and as evidenced by the number of legal challenges since the launch of the Afghan resettlement schemes, there is significant risk of litigation in

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<sup>6</sup> Military Aid to the Civil Authorities allows UK government departments to request assistance from the UK military in order to respond to emergencies or deliver essential services.

<sup>7</sup> In its factual accuracy response, the Home Office sought to include the following information, which is included for reference: "The Home Office released Afghan data via the migration statistics on 23rd Feb 2023, following cleansing of data and working towards achieving a single version of the truth. The next release was published on 25th May 2023 as part of the migration statistics."

Afghan resettlement applications. It is imperative that the Home Office ensures its policies and processes are compatible with equality and other legislation.

- 1.23** Both direct and indirect discrimination were identified in the operation of Afghan resettlement schemes. Inspectors were satisfied that this discrimination was likely to be permitted by the Equality Act 2010.
- 1.24** Inspectors found inconsistencies in the use of a ministerial authorisation in relation to direct race (nationality) discrimination in ACRS Pathway 2 and 3. Inspectors were not persuaded that a ministerial authorisation was required. Notwithstanding this, inspectors found it inconsistent that a ministerial authorisation was used for ACRS Pathway 2 and 3, but not for ACRS Pathway 1.
- 1.25** Inspectors found that where equality impact assessments (EIAs) had been undertaken, the quality was good, evidencing compliance with the public sector equality duty. Inspectors only found evidence of reviews and updates of EIAs related to the ARAP scheme. The Home Office invariably did not publish its Afghan resettlement EIAs on GOV.UK.
- 1.26** Inspectors noted a lack of EIAs for key policy changes with the potential for significant or unforeseen diversity impacts, such as the Home Office unilaterally pausing the processing of entry clearances at the point of issue in November 2022. The Home Office may experience difficulties in demonstrating compliance with the public sector equality duty in relation to these policy decisions.
- 1.27** Inspectors found that groups with vulnerabilities that engage with protected characteristics may experience greater difficulty accessing Afghan resettlement schemes. For example, women and girls may find it more difficult to leave Afghanistan to provide biometrics to progress their entry clearance application.

## Communication and transparency

- 1.28** Inspectors identified a lack of Home Office engagement with overseas applicants regarding the application process. Inspectors found a staff attitude where engagement with applicants was not seen as the Home Office's responsibility, as eligibility for Afghan resettlement schemes is determined by third parties.<sup>8</sup>
- 1.29** While the Home Office's concerns about the security risks of direct contact with overseas applicants in Afghanistan are acknowledged by inspectors, updates on the process could be effectively communicated by the Home Office through improved engagement with applicants' stakeholders or representative bodies.<sup>9</sup>
- 1.30** Key policy changes such as the 'flipping' of UKRS cases to ACRS and the pause on issuing entry clearances are not reflected in the current guidance available on GOV.UK.<sup>10</sup>

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8 In its factual accuracy response, the Home Office stated: "The Home Office agreed to the MOD's request that all communications be routed through them, recognising that they, and FCDO, were best placed to communicate with applicants. This was not only to mitigate the potential security risk of applicants having messages from HMG on their mobile devices, but also because they were 'on the ground' with them and had interpreters available."

9 In its factual accuracy response, the Home Office stated: "For clarification, the Home Office engages with MOD and FCDO who are effectively acting on applicants' behalf, as well as with any representatives also acting for individuals."

10 <https://www.gov.uk/government/publications/afghan-relocations-and-assistance-policy>  
<https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

## 2. Recommendations

1. The Home Office should establish a consistent assurance regime with a focus on decision quality.
2. The Home Office should contact all those who were unilaterally transferred ('flipped') to ACRS to advise them of the change.
3. The Home Office should publish information regarding the pause to processing overseas applications to Afghan resettlement schemes, including the reason(s) for the pause, the date the pause took effect, and a proposed timeframe for when decision making on the outcome of applications will recommence.
4. The Home Office should establish and maintain contact with all ARAP or ACRS applicants whose entry clearance applications have been 'paused', to advise them of the pause in processing their applications and to provide regular updates on the progress towards resuming the issuing of visas.
5. The Home Office should prioritise and adequately resource the cleansing of applicant data relating to all Afghan resettlement schemes to provide as accurate a dataset as possible.
6. The Home Office should develop robust contingency plans to prepare for future crisis events. These plans must focus on the accurate collection and assurance of data.
7. The Home Office should:
  - a. publish its equality impact assessments in respect of Afghan resettlement schemes on GOV.UK, where this would not harm national security or operational effectiveness
  - b. ensure that all significant policy updates or developments (as defined in the 'Home Office Public Sector Equality Duty and Equality Impact Assessment guidance') in Afghan resettlement schemes are subject to an equality impact assessment (or a review if an existing equality impact assessment is in place), to ensure that due regard is being given to the three strands of the public sector equality duty
  - c. ensure that all existing and future equality impact assessments in relation to Afghan resettlement schemes have a defined review date, with an assurance mechanism in place to ensure that those reviews are undertaken, and records made of those reviews.
8. The Home Office should publish updated guidance relating to those who were relocated during Operation PITTING with whom the Home Office has lost contact or has otherwise been unable to trace, to ensure they will not be subject to enforcement action solely because of a failure to regularise their immigration status.

9. The Home Office should set up an Afghan resettlement schemes working group to engage with stakeholders, the voluntary sector, NGOs and Afghan community groups to provide updates and seek feedback and lived experience in order to continuously improve Home Office caseworking.

## 3. Background

### Operation PITTING

- 3.1** On 13 August 2021, due to the deteriorating security situation in Afghanistan and the resurgence of the Taliban, the UK government stood up Operation PITTING (OP). OP was a military-led, multi-agency operation to evacuate British citizens, eligible Afghan nationals at risk due to their links with the UK government, and associated family members from Afghanistan.
- 3.2** Over 1,000 military personnel, as well as Home Office, MOD and FCDO staff, were deployed to Afghanistan and at airports in the United Kingdom to facilitate the evacuation.
- 3.3** OP successfully evacuated around 15,000 people over the course of a two-week period, of which around 3,000 were British citizens.<sup>11</sup>
- 3.4** However, a highly critical report by the House of Commons Foreign Affairs Committee pointed to a lack of organisation and forward planning by various government departments.<sup>12</sup> This report estimated that around 2,707 Afghan nationals called forward for evacuation were unable to depart under OP. Home Office documents seen by inspectors during this inspection referred to this group as “the left behind”.<sup>13</sup>
- 3.5** Some of those evacuated under OP already held an entry clearance conferring limited or indefinite permission to enter. However, many of those deemed eligible for evacuation held no such entry clearance and, in the circumstances, it would not have been reasonable or proportionate for the Home Office to require them to obtain prior entry clearance.
- 3.6** Providing that those called forward for evacuation passed security checks, those without prior entry clearance were allowed to travel to the UK without a visa and were granted permission to enter on arrival for six months with no other conditions (referred to internally by the Home Office as ‘Code 1a’).<sup>14</sup> These individuals would require a grant of further permission to remain to regularise their stay in the UK, which will be discussed in chapter 5.
- 3.7** Given the very short timescales to evacuate individuals from Afghanistan under OP, and the volatile and deteriorating situation on the ground in Kabul, record keeping and data capture were beset with issues that would require resolution by the Home Office at a later date.

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<sup>11</sup> <https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data>

<sup>12</sup> <https://committees.parliament.uk/publications/22344/documents/165210/default/>. According to data in this report, around 1,500 ARAP eligible individuals were called forward and not evacuated. 1,910 individuals classified as ‘special cases’ were also called forward, of which 483 were evacuated.

<sup>13</sup> Weekly internal Home Office dashboards summarising various Afghan resettlement metrics defined ‘the left behind’ as, “Those who were found eligible for evacuation prior to OP PITTING (which started on 14 August and finished on 28 August), called forward for evacuation during the operation, but not successfully evacuated.”

<sup>14</sup> Paragraph 39 of Afghanistan resettlement and immigration policy statement.

# Policy development in Afghan resettlement

## ‘Safe and legal routes’

**3.8** Safe and legal routes are defined as: “sanctioned immigration provisions that provide access to the UK for humanitarian reasons.”<sup>15</sup>

**3.9** The United Kingdom currently operates the following safe and legal routes:

- **refugee resettlement programmes** – the UK Resettlement Scheme, Community Sponsorship Scheme and Mandate Scheme<sup>16</sup>
- **refugee family reunion** – for immediate family members of refugees settled in the UK, where the familial relationship was in force before the refugee fled their country of origin<sup>17</sup>
- **nationality-based schemes** – principally for Afghan nationals, Ukrainian nationals and Hong Kong British Nationals Overseas<sup>18</sup>

A legacy refugee resettlement scheme, the Gateway Protection Programme, closed in March 2020, with the Vulnerable Persons Resettlement Scheme and Vulnerable Children’s Resettlement Scheme closing in February 2021.

**3.10** The focus of this inspection is nationality-based routes for Afghan nationals, specifically the elements of those schemes which fall within the role and remit of the ICIBI as defined in s48(1)a of the UK Borders Act 2007.<sup>19</sup>

**3.11** Entry clearance applications under safe and legal nationality-based routes for Afghan nationals cannot be submitted in Afghanistan because there are no current visa application centres in the country. Once eligibility for the schemes is confirmed by a third party, overseas applicants considered for entry clearance under these schemes are required to travel to a Home Office visa application centre in a third country to provide biometrics and submit any documentation required.<sup>20</sup>

## History of nationality-based routes for Afghan nationals and their family members

### The Intimidation Scheme

**3.12** From 2010, the Ministry of Defence (MOD) operated an Intimidation Scheme (IS) which included the potential for relocation to the United Kingdom.<sup>21</sup> The scheme was overseen by the Ministry of Defence Intimidation Investigation Unit in Kabul and was open to locally engaged staff (LES) who worked directly for the UK government from 2001. Guidance on GOV.UK available during the period that the intimidation policy was extant stated:

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15 <https://commonslibrary.parliament.uk/research-briefings/cbp-9630/#:~:text=%27Safe%20and%20legal%27%20routes%20are,can%20come%20to%20the%20UK>

16 Further information on the three resettlement schemes can be found in the Home Office resettlement policy guidance: <https://www.gov.uk/government/publications/resettlement-policy-statement>

17 On 21 February 2023, the ICIBI published a report examining the Home Office’s refugee family reunion routes: <https://www.gov.uk/government/news/inspection-report-published-a-reinspection-of-family-reunion-applications-september-october-2022>

18 On 8 November 2022, the ICIBI published a report examining the Hong Kong British National (Overseas) route: <https://www.gov.uk/government/publications/an-inspection-of-the-hong-kong-british-national-overseas-visa-route-april-june-2022>

19 <https://www.legislation.gov.uk/ukpga/2007/30/section/48>

20 Applicants over the age of five applying for an entry clearance are required to submit their biometrics – fingerprints and a photograph – in accordance with regulation 5 of the Immigration (Biometric Registration) Regulations 2008.

21 <https://publications.parliament.uk/pa/cm201719/cmselect/cmdfence/572/57207.htm>



“Relocation to the UK is only provided in the most serious cases, where there is a significant and imminent threat to safety and all other measures have been exhausted and/or UK relocation is the only way to mitigate the threat to you.”

- 3.13** The IS assessed the potential risk to individuals using a traffic light system:
- **green** – low risk of harm, with a response of providing low-level security advice, such as changing contact details or travel patterns
  - **amber** – cases with a more substantial risk of harm; in such cases, the LES may be offered financial assistance to resettle within Afghanistan
  - **red** – the most serious cases where relocation to the UK would be considered
- 3.14** The IS was based on the investigation of alleged cases of intimidation and required the applicant to submit discrete evidence to the MOD. The scheme was replaced by the Afghan Relocations and Assistance Policy in 2021.
- 3.15** According to data in a Home Office equality impact assessment produced on 12 February 2021, a total of 21 individuals (four LES and their dependant family members) were relocated to the UK under the IS.<sup>22</sup>

## The Ex-Gratia Scheme

- 3.16** In 2013, the then Secretary of State for Defence announced the introduction of the Afghanistan Ex-Gratia Scheme (EGS). The policy intent of the scheme was to offer support to LES in Afghanistan employed directly by the UK government who were adversely affected by the drawdown of British forces that year. The scheme was changed in 2018 to include retrospectively those made redundant by the UK government on or after May 2006 with at least 12 months, relevant service in Afghanistan.<sup>23</sup>
- 3.17** The EGS had three potential outcomes for qualifying applicants:
- a financial payment
  - a training offer with financial support
  - relocation to the United Kingdom
- 3.18** Only one of the three options could be selected by qualifying LES. The relocation element of this scheme was only offered to those who had “put themselves in the most danger whilst serving in Afghanistan”. The EGS did not consider the level of risk to the wellbeing of the individual LES or their family members at the time of application. Rather, it was a recognition of the service given by the LES. Only LES working in specific roles with a qualifying level of service would be eligible for the relocation offer.<sup>24</sup> Between 2013 and 2021, 1,400 LES and their family members were resettled under the EGS.<sup>25</sup>

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<sup>22</sup> Equality impact assessment of the introduction of the ARAP scheme: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/966658/Afghan\\_LES\\_EIA.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966658/Afghan_LES_EIA.pdf)

<sup>23</sup> <https://www.gov.uk/government/publications/afghanistan-locally-employed-staff-ex-gratia-scheme/afghanistan-locally-employed-staff-ex-gratia-scheme-further-information-on-eligibility-criteria-and-offer-details>

<sup>24</sup> Roles are defined as “(MOD) PJHQ job roles NIG 3 L1-3 and NIG 4-6 and equivalent LES roles in other government departments.”

<sup>25</sup> Afghanistan resettlement and immigration policy statement, updated 2 March 2023.

## Afghan Relocations and Assistance Policy

- 3.19** On 1 April 2021, the Afghan Relocations and Assistance Policy (ARAP) was launched by the Home Secretary and Defence Secretary, in preparation for the withdrawal of UK troops and in response to the security situation in Afghanistan at that time.<sup>26</sup> There was some overlap with the EGS until that scheme was closed on 30 November 2022.
- 3.20** The ARAP scheme is a two-step process, operated in partnership between the MOD and the Home Office. Eligibility is determined by the MOD, the Foreign, Commonwealth and Development Office (FCDO), or the National Crime Agency (NCA), while suitability is considered by the Home Office.<sup>27</sup> The Home Office is not involved in the eligibility decision (though as discussed in this report, inspectors found that the Home Office did challenge the MOD where concerns regarding eligibility were identified).<sup>28</sup>
- 3.21** Prior to October 2022, only the Home Office suitability assessment was part of the Immigration Rules. However, HC719, published on 18 October 2022, introduced the MOD eligibility decision into the Immigration Rules, alongside the suitability consideration made by the Home Office.<sup>29</sup>
- 3.22** In an equality impact assessment of this amendment to the Immigration Rules, the Home Office explained the rationale for this change:
- “We propose to place the two-stage process into the Immigration Rules to ensure that the Rules accurately reflect this two-stage process.
- We believe asking the Afghan citizen and their family to make two separate applications is justified. It ensures eligibility for ARAP remains the decision of the sponsoring Government department. Those deemed ineligible will more clearly understand they must find an alternative application to make if they wish to be considered under or outside of the Immigration Rules. It will clarify the basis of refusal and challenge to the relevant department by way of a reconsideration request on eligibility to the sponsoring department, or by way of judicial review against an immigration refusal to the Home Office, thus avoiding complex litigation with multiple Government departments as co-defendants.”
- 3.23** Dependant family members under the ARAP route are granted or refused on eligibility or suitability grounds and in line with the principal applicant, providing that a qualifying familial relationship can be demonstrated, and that they do not fall for refusal on suitability grounds in their own right.
- 3.24** From the point of inception, the ARAP scheme granted successful applicants permission to enter for five years. However, on 1 September 2021, the policy was amended retrospectively to give all successful and future ARAP applicants indefinite permission to stay.<sup>30</sup> Applicants granted five years’ permission to enter could apply to the Home Office to convert their permission to enter to indefinite permission to stay.

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26 Afghanistan resettlement and immigration policy statement, updated 2 March 2023.

27 Suitability in this context means an application of Part 9 of the Immigration Rules. This is a consideration of whether the applicant should be refused entry using a set of ‘general grounds for refusal’, for example grounds of deception, criminality, national security, or adverse immigration history.

28 In its factual accuracy response, the Home Office stated: “The Home Office would not challenge the eligibility of principal applicants, whereas the teams have challenged the eligibility of family members where there were doubts about the relationship.”

29 <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc719-18-october-2022>

30 Paragraph 39 of the Afghanistan resettlement and immigration policy statement.

## Home Office consideration of ARAP suitability

**3.25** To be eligible for relocation under the ARAP scheme, a principal applicant must be over the age of 18, be a national of Afghanistan, and meet one of the three sets of criteria in Figure 1:

**Figure 1: Eligibility requirements for the ARAP scheme**

Immigration Rule	Eligibility criteria
<b>ARAP 3.4</b>	At any time on or after 1 October 2001, the applicant was directly employed in Afghanistan by a UK Government department; <b>and</b> because of that employment, there is a high and imminent risk of a threat to their life.
<b>ARAP 3.5</b>	At any time on or after 1 October 2001, the applicant: <ul style="list-style-type: none"><li>(i) was directly employed in Afghanistan by a UK Government department; <b>or</b></li><li>(ii) provided linguistic services to or for the benefit of members of the UK's armed forces in Afghanistan under contract to a UK Government department (whether as, or on behalf of, a party to the contract); <b>and</b></li></ul> the nature of the role in which the person was employed was such that the UK's operations in Afghanistan would have been materially less efficient or materially less successful if a role or roles of that nature had not been performed; and the nature of the role exposed the person to being publicly recognised as having performed that role; and as a result of that public recognition, the person's safety is at risk.

Immigration Rule	Eligibility criteria
<b>ARAP 3.6</b>	<p>The applicant must meet <b>both</b> requirements of condition 1 and 2 as well as <b>either</b> requirement of conditions 3 and 4.</p> <p><b>Condition 1 (must be met)</b></p> <p>At any time on or after 1 October 2001, the person:</p> <ul style="list-style-type: none"> <li>(i) was directly employed in Afghanistan by a UK Government department; or</li> <li>(ii) provided goods or services in Afghanistan under contract to a UK Government department (whether as, or on behalf of, a party to the contract); or</li> <li>(iii) worked in Afghanistan alongside a UK Government department, in partnership with or closely supporting and assisting that department.</li> </ul> <p><b>Condition 2 (must be met)</b></p> <p>In the course of the employment or work or the provision of those services under Condition 1, made a substantive and positive contribution towards the achievement of one or more of the following:</p> <ul style="list-style-type: none"> <li>(i) the UK Government’s military objectives with respect to Afghanistan; or</li> <li>(ii) the UK Government’s national security objectives with respect to Afghanistan (and for these purposes, the UK Government’s national security objectives include counter-terrorism, counter-narcotics and anti-corruption objectives).</li> </ul> <p><b>Condition 3 (must be met if condition 4 not met)</b></p> <p>Because of the person’s employment or work or those services under condition 1, the person:</p> <ul style="list-style-type: none"> <li>(i) is or was at an elevated risk of targeted attacks; and</li> <li>(ii) is or was at high risk of death or serious injury.</li> </ul> <p><b>Condition 4 (must be met if condition 3 is not met)</b></p> <p>The person holds information, the disclosure of which would give rise to or aggravate a specific threat to a UK Government department or its interests.</p>

## Afghan Citizens Resettlement Scheme

- 3.26** The Afghan Citizens Resettlement Scheme (ACRS) differs from ARAP insofar as it is outside the Immigration Rules. The route has no application process and is instead reliant on individuals being ‘referred’ to the Home Office by a third-party organisation for consideration.
- 3.27** Numbers under ACRS are capped and the scheme will resettle up to 20,000 individuals over a number of years. In year one, the Home Office has committed to resettling 5,000 individuals.<sup>31</sup> Home Office policy officials with responsibility for ACRS interviewed during this inspection

<sup>31</sup> <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

were unable to tell inspectors when year 1 ends and year 2 begins, nor is this information defined on GOV.UK.

**3.28** The scheme has three ‘pathways’. The FCDO and United Nations High Commissioner for refugees are responsible for making referrals to the Home Office under ACRS. The criteria and responsible organisation for each pathway are summarised in Figure 2:

**Figure 2: Summary of ACRS referral pathways<sup>32</sup>**

Pathway	Responsible organisation	Referral criteria
1	FCDO	Vulnerable and at-risk individuals who are already in the UK, having arrived under Op PITTING (OP). Also includes eligible people who were notified by the UK government that they had been called forward or specifically authorised for evacuation under OP but were unable to board flights.
2	UNHCR	Referrals from the United Nations High Commissioner for Refugees (UNHCR) of vulnerable refugees who have fled Afghanistan and are in a third country. UNHCR will refer individuals in accordance with their standard resettlement submission criteria, which are based on an assessment of protection needs and vulnerabilities. <sup>33</sup>
3	FCDO	<p>A route to resettlement for those at risk who supported the UK and international community effort in Afghanistan, as well as those who are particularly vulnerable, such as women and girls and members of minority groups.</p> <p>In the first year of this pathway, the pathway is open to three groups:</p> <ul style="list-style-type: none"> <li>• British Council contractors</li> <li>• GardaWorld contractors<sup>34</sup></li> <li>• Chevening alumni<sup>35</sup></li> </ul> <p>Pathway 3 is capped at 1,500 places in the first year. This includes principal applicants and their family members.</p>

**3.29** In common with the ARAP scheme, the Home Office’s role in ACRS is to consider suitability rather than eligibility, the latter being a matter for the referring organisation.

**3.30** For ACRS Pathway 3 cases, the FCDO opened an expression of interest (EOI) exercise on 13 June 2022, which ran for eight weeks.<sup>36</sup> This allowed individuals to ‘self-refer’ to the scheme, but

32 Information drawn from <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

33 <https://www.unhcr.org/uk/protection/resettlement/558c015e9/resettlement-criteria.html>

34 GOV.UK guidance states: “For the purposes of Pathway 3 of the ACRS a GardaWorld contractor is someone employed by GardaWorld on host country terms and conditions, for a period of 3 months or more after 1 July 2020, exclusively to support the British Embassy Kabul contract. GardaWorld contractor includes someone whose contract was terminated during or after March 2021 due to the reduction in the requirement for guarding the British Embassy in Kabul, and someone who, while engaged as part of the GardaWorld Regional Management Team, provided dedicated and material support to the British Embassy Kabul contract.”

35 GOV.UK guidance states: “For the purposes of Pathway 3 of the ACRS an Afghanistan Chevening Alumnus is someone awarded an Afghanistan Chevening Scholarship to study in the United Kingdom, and who completed their course of study under the terms of their Scholarship.”

36 <https://webarchive.nationalarchives.gov.uk/ukgwa/20220613174252/https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme-pathway-3-eligibility-for-british-council-and-gardaworld-contractors-and-chevening-alumni>

there was still a requirement for the FCDO to prioritise and refer such individuals to the Home Office once they had confirmed eligibility.

**3.31** As well as the principal applicant, a dependant spouse and children under the age of 18 are eligible to be resettled under ACRS. Other family members, referred to as ‘additional family members’ or AFM, will be resettled only in exceptional circumstances. Decisions on the eligibility of AFM for ACRS Pathway 3 are made by the FCDO in accordance with guidance available on GOV.UK.<sup>37</sup>

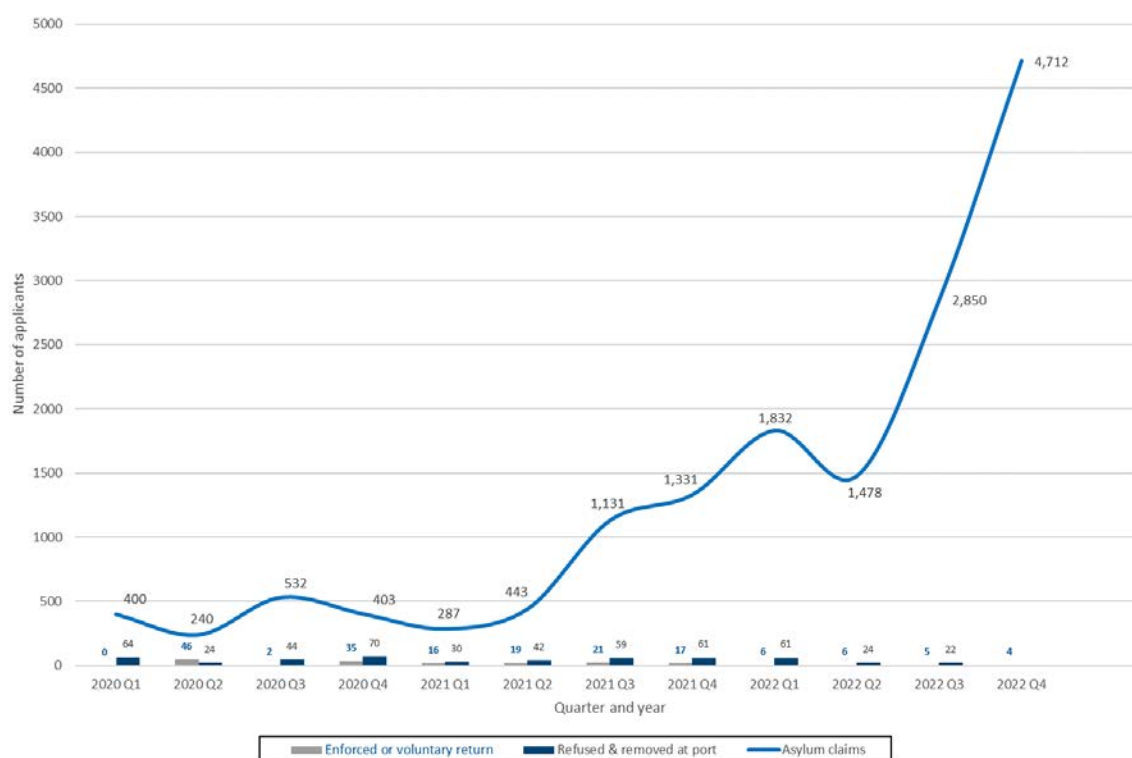
**3.32** In the first year of operation, the UK government committed £200 million to operate ACRS.<sup>38</sup>

## Asylum claims and removals

**3.33** The UK has suspended enforced removals to Afghanistan for those without valid immigration status.<sup>39</sup> Despite this, Home Office transparency data from Q3 2021 to Q3 2022 indicates that since OP, there have been three enforced removals of Afghan nationals to their home country and 13 voluntary departures, all to Central Asia. The data does not state whether removal to their ‘home country’ was a removal to Afghanistan.

**3.34** Additional data published by the Home Office shows that since OP, there has been a significant increase in the number of asylum claims submitted by Afghan nationals arriving in the UK by means other than safe and legal routes. A summary of this data, along with data on the number of voluntary or enforced removals for Afghan nationals, is provided in Figure 3:

**Figure 3: Afghan asylum claims and removals data 2020 to 2022<sup>40</sup>**



<sup>37</sup> [https://www.gov.uk/government/publications/additional-family-members-under-pathway-3-of-the-afghan-citizens-resettlement-scheme/additional-family-members-under-pathway-3-of-the-afghan-citizens-resettlement-scheme-accessible#:~:text=Additional%20family%20member%20\(AFM\),set%20out%20in%20this%20guidance](https://www.gov.uk/government/publications/additional-family-members-under-pathway-3-of-the-afghan-citizens-resettlement-scheme/additional-family-members-under-pathway-3-of-the-afghan-citizens-resettlement-scheme-accessible#:~:text=Additional%20family%20member%20(AFM),set%20out%20in%20this%20guidance)

<sup>38</sup> <https://www.gov.uk/government/news/operation-warm-welcome-underway-to-support-afghan-arrivals-in-the-uk>

<sup>39</sup> Paragraph 47 of the Afghanistan resettlement and immigration policy statement.

<sup>40</sup> Data source: Immigration system statistics data tables, year ending December 2022 for asylum claims and returns.

## Terminology used in this report

- 3.35** For ease of reference, this report will refer to all individuals either applying under the ARAP scheme or referred under ACRS as ‘applicants’.

## 4. Scope and methodology

**4.1** This inspection sought to examine the effectiveness, efficiency, and consistency of the Home Office's processing of applications to Afghan resettlement schemes.

**4.2** Inspectors:

- reviewed open-source material relating to Afghan resettlement schemes
- on 4 October 2022, notified the Home Office of the intention to inspect the business area
- on 6 October 2022, conducted an online familiarisation session with Home Office staff
- on 18 and 19 October 2022, undertook an onsite familiarisation visit in Sheffield, observing and conducting focus groups with Home Office staff from Administrative Officer to Grade 6
- on 2 November 2022, formally notified the Home Office of the scope of the inspection and requested case references for a random sample of Afghan resettlement cases
- in October 2022, November 2022 and March 2023, requested and, on receipt, analysed more than 200 pieces of documentary evidence from the Home Office
- reviewed 150 electronic Home Office records for Afghan resettlement applications, including cases under the Afghan Relocations and Assistance Programme (ARAP) and two pathways of the Afghan Citizens Resettlement Scheme (ACRS)<sup>41</sup>
- from 3 to 27 November 2022, issued a call for evidence via the ICIBI website, inviting anyone with knowledge and experience of the Home Office's Afghan resettlement schemes to submit evidence, and analysed 38 responses
- from 17 November 2022 to 7 February 2023, the inspection was paused at the request of the Home Office
- met with non-governmental stakeholders, including charities, NGOs and Afghan community groups
- met with Afghan nationals who had applied under or been referred to Afghan resettlement schemes, to gain a better understanding of their lived experience
- on 1 March 2023, met with representatives of the Ministry of Defence in their capacity as a Home Office stakeholder
- On 21 November 2022 and 7 March 2023, met with representatives of the Foreign, Commonwealth and Development Office in their capacity as a Home Office stakeholder
- between 28 February 2023 and 9 March 2023, conducted 27 virtual and in-person interviews and focus groups with Home Office staff from grades Administrative Officer to Senior Civil Servant
- on 23 March 2023, presented the inspection emerging findings to the Home Office Senior Civil Servant for the business area and other Home Office senior managers

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<sup>41</sup> Inspectors requested file references for all three Afghan resettlement pathways under ACRS, but the Home Office was unable to provide file references for ACRS Pathway 3 cases.



- on 31 March 2023, the Chief Inspector wrote to the Director General of UK Visas and Immigration and the Second Permanent Secretary regarding the decision to pause issuing Afghan resettlement entry clearances in November 2022. A response was received from the Second Permanent Secretary on 19 April 2023

## 5. Inspection findings: process

- 5.1 Inspectors considered the Home Office's processing of applications to Afghan resettlement schemes against two ICIBI expectations: processes are simple to follow and transparent; and decisions and actions are 'right first time'.<sup>42</sup>

### Overview of process for ARAP, ACRS Pathway 1 and ACRS Pathway 3

- 5.2 The Home Office's Joint Afghan Casework Unit (JACU) is responsible for reviewing and processing applications under the Afghan Relocations and Assistance Policy (ARAP), Afghan Citizens Resettlement Scheme Pathway 1 (ACRS P1), and Afghan Citizens Resettlement Scheme Pathway 3 (ACRS P3). The JACU comprises two distinct teams, the JACU out-of-country (OOC) team, which processes overseas applications, and the JACU in-country (IC) team, which processes applications submitted in the UK.
- 5.3 Both JACU teams assess applications from four Afghan resettlement cohorts:
- principal applicants to ARAP
  - dependants of ARAP main applicants<sup>43</sup>
  - principal applicants to ACRS P1 and ACRS P3
  - dependants of ACRS P1 and ACRS P3 applicants
- 5.4 In the case of the ARAP scheme, eligibility is confirmed by the Ministry of Defence (MOD), the Foreign, Commonwealth and Development Office (FCDO), or the National Crime Agency (NCA). If the applicant does not meet the eligibility requirements, the application is refused by the MOD and does not progress to the Home Office for consideration. There were differing opinions in the Home Office as to whether the MOD decision constituted an immigration decision. Caseworkers told inspectors that, in their view, the MOD eligibility decision was not an immigration decision. Representatives of the Home Office policy team told inspectors that, in their view, the MOD decision was "a decision made under Immigration Rules, but not necessarily an immigration decision."
- 5.5 If eligibility is confirmed, applicants and any dependants are advised to travel to a visa application centre (VAC) to provide their biometrics. For those in Afghanistan, that would be in a third country. A visa application form (VAF) is completed and submitted on the applicant's behalf by either the MOD or the FCDO.

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42 ICIBI 'expectations'

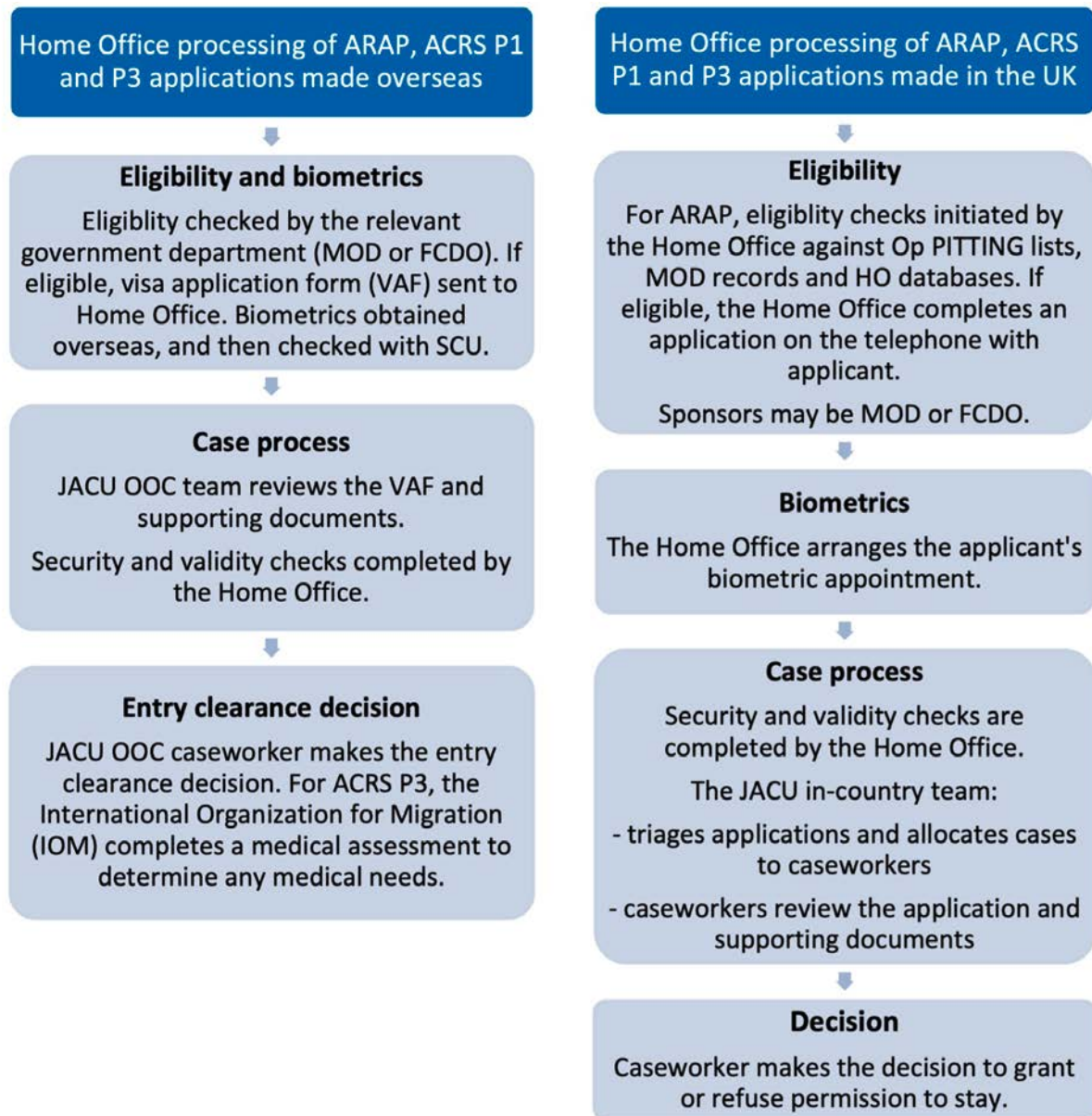
43 "Afghan citizens who are eligible for relocation to the UK under the ARAP may relocate with a partner, dependent children and additional family members who are also deemed eligible for relocation under the ARAP by the Ministry of Defence and suitable for relocation by the Home Office." <https://www.gov.uk/government/publications/afghan-relocations-and-assistance-policy/afghan-relocations-and-assistance-policy-information-and-guidance>

- 5.6** Once an ARAP, ACRS P1, or ACRS P3 entry clearance application has been made, documents are scanned and details are entered onto the relevant casework system: Proviso for overseas applications, and Atlas for those applications made in the UK. Biometrics are taken and cross checked against other systems.
- 5.7** This allows the Home Office to undertake security checks on the applicant and any family members. Any cases with security concerns are handled by the Home Office Special Cases Unit (SCU).
- 5.8** Following security checks, the Home Office's role in the process is to consider the suitability of the applicant, in terms of whether the applicant falls under the general grounds for refusal in Part 9 of the Immigration Rules.<sup>44</sup>
- 5.9** Home Office staff corroborate the eligibility of the applicant with records provided by the relevant sponsoring department, the MOD, or the FCDO. Following these checks, the case is sent to Home Office caseworkers in either the JACU OOC team or the JACU IC team, depending on the applicant's location, for a decision to either grant or refuse permission to enter or stay.
- 5.10** Inspectors found little evidence of collaborative working between the JACU OOC and JACU IC teams. The two teams operate distinctly, and in silos, without sharing resources, expertise, or ideas. JACU staff perceive the teams to be separate entities. Any communication between the teams was on an ad hoc basis, and there was little liaison between the teams. As later discussed, the JACU IC team had a formal triage process to allocate work and identify high-priority cases. This process was not replicated in the JACU OOC team, where decision makers selected which applications to consider. Inspectors considered this learning could be beneficial.
- 5.11** While ARAP and ACRS are separate schemes with different eligibility criteria and sponsoring organisations involved, the Home Office's processing of ARAP, ACRS P1, and ACRS P3 applications follows the same suitability, validity, and security check considerations to make decisions. An overview of this process is outlined in Figure 4.

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<sup>44</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

**Figure 4: The process of applications to ARAP, ACRS Pathway 1, and ACRS Pathway 3**



## Training

- 5.12 The Home Office provided inspectors with copies of training material used to train staff on how to process applications to ARAP, ACRS P1, and ACRS P3. There were PowerPoint presentations to display process maps and casework guidance sheets for staff to refer to.
- 5.13 JACU OOC staff were positive about induction training, which included training on the operating mandate, discussed further in 5.22. This was followed by one-to-one coaching on the processing of applications.
- 5.14 Inspectors received mixed feedback on the quality of training provided to JACU IC staff. Some staff reported that induction training was “wholly inadequate” and consisted of a “couple of handouts”, whereas some staff reported that training had been “effective” in explaining the process. There was a consensus that the training included very little on identifying which

scheme (ACRS or ARAP) was appropriate for specific applicants. As a result of this, staff acknowledged that some applicants were granted permission to remain under the incorrect Afghan resettlement category. These errors were only later identified by applicants notifying the Home Office of them, and subsequent quality assurance checks were then completed. Biometric residence permits (BRPs) were cancelled, an apology email was sent to the applicant, and the correct BRP was then issued.

## Special Cases Unit

- 5.15** The Home Office Special Cases Unit (SCU) undertakes additional checks on applications, as required. There are several instances where an SCU check would be conducted – [Redacted] if a criterion is met on the UK Visas and Immigration triage list which details cases that must be referred to SCU; as well as any applications referred by Home Office staff for further assessment. The checks can take a considerable period of time to complete. Decision makers told inspectors that some applications take over one year for SCU checks to be completed. Generally, one to two cases per month were adopted by SCU.
- 5.16** Security checks were previously facilitated through the Home Office SCU. However, a watchlist check is now made in lieu of SCU checks, following the agreement of ministers on 14 February 2023.<sup>45</sup>
- 5.17** Higher Executive Officers (HEOs) in SCU consider referrals collaboratively as a team, by reviewing any intelligence relating to the applicant, seeking legal advice where required, and testing the accuracy of the intelligence. This assessment is used to determine whether the application should be referred for refusal on security grounds. A proposed decision is passed to a Senior Executive Officer (SEO) caseworker for review and sign off. During onsite interviews, inspectors were informed that the reason an application's referral to SCU is not revealed to caseworkers is to reduce the risk of influencing the caseworker's judgement.<sup>46</sup> For those applications that are refused, SCU does not divulge the underlying intelligence informing the grounds for refusal outside of SCU.
- 5.18** JACU IC staff were largely positive regarding the level of engagement with SCU. A JACU IC manager praised the close relationship with SCU. The JACU OOC team praised the speed of the SCU's response to queries, which is usually by the next working day.

## Applications made overseas

### Resources

- 5.19** The JACU OOC team consists of one Administrative Officer (AO) and three Entry Clearance Officers (ECOs) that process overseas ARAP and ACRS applications. The team is managed by an Entry Clearance Manager (ECM) and a Grade 7 manager.
- 5.20** The team reported that they were sufficiently resourced, with a manageable workload. Inspectors heard that staff feel supported and were able to challenge their managers across all grades.

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<sup>45</sup> Arrivals in the UK are checked against a Home Office watchlist.

<sup>46</sup> In its factual accuracy response, the Home Office commented that the reason for non-disclosure of referral reasons to SCU is to protect the sensitivities of the case.

## Processing of overseas applications

- 5.21** Applications are emailed to the JACU OOC team by the FCDO and MOD. The JACU OOC ECM identifies new applications and sends them to the AO. Applications are uploaded to Proviso. Once biometric data has been uploaded to Proviso, case records are created. The cases are transferred to an internal spreadsheet and ECOs allocate cases to themselves from that list. They are then processed on Proviso, where all casework actions are recorded. There was an absence of any formal allocation method to assign applications to caseworkers.<sup>47</sup>
- 5.22** The ECM is responsible for the management of workflow for the JACU OOC team. Caseworkers refer complex applications to the ECM. The ECM uses an internal spreadsheet, 'Business as Usual Monitoring' Business Application Management System, which replicates some of the data from Proviso to monitor the case flow. As staff explained to inspectors, this duplication of the data contained in Proviso is because Proviso does not have a function to generate reports. BAM (Business Activity Monitoring) is a tool which pulls case data directly off Proviso and displays it in a spreadsheet. The ECM uses this to identify all relevant cases received. The case numbers are then transferred to the team's own spreadsheet tracker which enables the team to log extra information that is not available on the Business Application Management System, such as updates regarding the current status of the cases, including any actions required or pending.
- 5.23** The JACU OOC team has an operating mandate, which sets out the mandatory checks and processes that must be followed by Home Office staff on all applications. There are seven stages of checks applied to ARAP and ACRS applications:
- travel document and ID checks
  - watchlist check
  - police check
  - police security clearance check
  - immigration and asylum check
  - Central Reference System (CRS) checks<sup>48</sup>
  - security checks
- 5.24** If all suitability checks are cleared, and the application data matches the supporting documents, JACU OOC staff issue the entry clearance. If there are any queries raised from these checks, further enquiries are undertaken before a decision is made to either issue or refuse an entry clearance.
- 5.25** The Home Office can query an applicant's eligibility with the sponsoring organisation. Inspectors were provided with an example of confusion over the application of the Immigration Rules for the spouse of an ARAP applicant. While the Home Office disagreed with the eligibility assessment, and communicated this to the FCDO, the FCDO stood by their eligibility decision.
- 5.26** At the time of this inspection, all ARAP and ACRS applications were processed up to the point of the entry clearance decision. Since November 2022, there has been a pause in the issuing of entry clearances, which is discussed in detail in chapter 6. For applicants that met both the eligibility and suitability requirements, an entry clearance was not issued and the status of the

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<sup>47</sup> In its factual accuracy response, the Home Office stated: "If there are circumstances where MoD or FCDO feel that a case should be prioritised, such as a specific threat or medical issue, then this is communicated to the ECM/G7 by e-mail and the case actioned accordingly."

<sup>48</sup> The Central Reference System is a Home Office system allowing read-only access to visa application data held on the FCDO Proviso system.

application on Proviso was changed to “defer”, with standardised wording that the case was “awaiting issue of VISA [sic] due to current operational logistics.” Applications meriting refusal were not paused or deferred and a refusal decision was made and served on the applicant.

- 5.27** An entry clearance can only be issued up to 240 days after the biometrics have been submitted. Once 240 days has passed, certain parts of the application are deleted from the Proviso system, and Home Office IT systems do not allow for the entry clearance to be printed in a remote location after this point. When 240 days has passed, the applicant must resubmit both their application and biometrics. Inspectors were told that since November 2022, 379 cases that had been submitted for Afghan resettlement schemes overseas had reached this point. Some of these 379 cases were delayed due to requiring complex SCU checks.
- 5.28** The JACU OOC team sends monthly reminder emails to the SCU to ask for updates on cases that are subject to further checks.

## Applications made in the UK

- 5.29** Applications for ARAP, ACRS P1, and ACRS P3 that are made in the UK are processed by the JACU IC team. Once applications are received by the team, the process, review, and consideration of applications is the same for each route.

## Resources

- 5.30** Following the reduction in the number of Afghan resettlement applications submitted in the UK, the number of staff in the JACU IC team has reduced. From March 2023, the JACU IC team consisted of two AOs and one EO, managed by one SEO. Prior to this, 20 AOs and eight to 12 EOs were managed by seven HEOs and overseen by four SEOs. Some staff have been moved to other Home Office teams.
- 5.31** Staff reported they felt able to challenge their managers, who were available and approachable. AOs reported that team meetings and one-to-ones took place regularly, with staff feeling supported. Staff also reported strong communication in the team, which created a cohesive working atmosphere.
- 5.32** When ARAP and ACRS were launched, the Home Office employed approximately 50 agency staff to process the influx of applications. Managers told inspectors that this caused challenges regarding performance, attitude, and the logistics of new agency staff working from home due to the COVID-19 pandemic. Home Office caseworkers reported some agency staff “did not care about the work and made any decision they wanted.”
- 5.33** In addition to agency staff, staffing resources were sourced from other Home Office teams. One Home Office manager reported that, ideally, a staffing structure would be created prior to the commencement of any casework. Another Home Office manager commented that the model used by the Home Office in a crisis is to “pull staff from everywhere and throw them at the problem” without clear guidance, training, or a structure.

## Former processing of in-country applications

- 5.34** During the initial stages of the launch of the Afghan resettlement schemes, the JACU IC team telephoned applicants in the UK to complete an application for indefinite permission to stay. The eligible applicants were identified by the MOD via a data collection exercise conducted

via Military Aid to the Civil Authorities (MACA).<sup>49</sup> Initially, there was a team target of 600 considerations per day. To corroborate phone calls made, emails were also sent to applicants. Interpreters were also used for the phone calls when required. However, staff reported instances whereby contact names and addresses were misheard, resulting in BRPs being sent to incorrect addresses.

- 5.35** The efficiency of the application process was previously affected by the JACU IC team's lack of access to the Home Office's Case Information Database (CID), which stores data records of legacy and current immigration cases. Access to CID enables caseworkers to gain a better understanding of an applicant's immigration history. This created additional work for staff. Application data on CID is also available on Atlas. Home Office guidance for caseworkers specified that all records on Atlas should be checked to identify whether an individual was actually a British citizen. There were some occasions where caseworkers were not following the guidance correctly, resulting in some British citizens with the right of abode in the UK being granted indefinite permission to stay (IPS) in error. This is discussed further in chapter 7.
- 5.36** Inspectors found that due to the lack of access to systems, JACU IC staff had to telephone Op PITTING evacuees to ask for their immigration status and to provide evidence of their status. The Home Office faced the organisational embarrassment of its JACU IC staff telephoning British citizens with the right of abode to ask for their immigration status. Consequently, the recipients questioned the validity of the phone calls and whether the calls were actually from Home Office staff.<sup>50</sup>

## Current processing of in-country applications

- 5.37** A triage process is used by the JACU IC team to allocate work to caseworkers. High-profile cases are prioritised and processed more quickly. For example, inspectors were informed that applications for Chevening scholars<sup>51</sup> were identified as 'high profile' and prioritised for processing. A spreadsheet is used to allocate work to AOs, which EO line managers can check.
- 5.38** Inspectors observed AO staff processing indefinite permission to stay applications. On receipt, the accuracy checks are focused on the name, contact details, and sponsor details to confirm the correct applicant is being processed. However, the majority of a caseworker's time was spent trying to obtain supporting documents that were missing, rather than verifying any checks. This also entailed telephoning applicants and sponsors for evidence.
- 5.39** Inspectors found the processing of the applications by the JACU IC team contained several 'tick box' questions. For some questions, such as whether an applicant has been in breach of immigration laws, whether all eligibility requirements for the route have been met, and whether cohabitation requirements have been met, staff always check the box to confirm the condition has been satisfied, regardless of the applicant's circumstances. As staff have been told to always enter the same response, and do not undertake any of these checks themselves, inspectors questioned the value and efficiency of having standard questions with the same mandated responses. Inspectors were also unsure as to the relevance of predetermined answers to questions if they are not reflective of who undertook these checks.

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49 MACA data is a record of applicant data sourced by MOD staff from applicants residing in bridging hotels.

50 In its factual accuracy response, the Home Office stated: "These calls were mainly made to sponsors. The application form initially only asked for the sponsor's name and if this was not a parent (or the applicant was over 18) this was the only information available. In those cases it was necessary to phone a British National to obtain their date of birth and a copy of their British Passport for Home Office records, so that the team could identify the correct person on Atlas. There were some occasions where the sponsor could not be traced on Atlas, so telephone calls were required to be made to obtain the necessary information."

51 Chevening scholarships are the UK government's global scholarships programme. (<https://www.gov.uk/government/organisations/chevening-foundation>)



- 5.40** Inspectors found linked applications of a principal applicant and their dependants are not always processed together by the same caseworker, as there is no requirement to also read the linked application. Inspectors were shown an example whereby an ACRS principal applicant’s application was reviewed by one AO caseworker, and the dependant applications were reviewed by a different caseworker. Inspectors considered that this may be inefficient, as two caseworkers would have to spend time familiarising themselves with the circumstances of the main applicant. There was also the potential for inconsistencies in the processing of different family members in the same cohort.
- 5.41** In March 2023, Home Office staff estimated that there were fewer than 100 applications made by applicants in the UK that are yet to be processed.<sup>52</sup> These applications are largely unresolved due to IT issues, and the inability of the Home Office’s Atlas database to reflect that biometrics have already been taken for some applicants. The impact IT has on the efficiency of this process has resulted in weekly meetings with the Home Office’s IT team and JACU IC team members. These meetings have taken place since 2021 and were still taking place at the time of this inspection.
- 5.42** Home Office staff expressed their frustration that the IT issues with the remaining Afghan resettlement applications have not been prioritised. In some situations, applicants have had to undertake the application process again, including the resubmission of biometric data, due to IT issues. The remaining applications that are unresolved are awaiting the outcome of impending criminal prosecutions.

## Process for Afghan Citizens Resettlement Scheme Pathway 2 (ACRS P2)

### Background

#### Role of the UNHCR

- 5.43** The United Nations High Commissioner for Refugees (UNHCR) is a non-political, humanitarian organisation. It is the internationally recognised and UN-mandated agency responsible for refugees. The Home Office relies on the UNHCR to identify and refer vulnerable refugees for resettlement. Home Office guidance states:

“UNHCR has responsibility for all out-of-country casework activity relating to our resettlement schemes.

They will:

verify identity and family composition;

interview registered refugees to determine their experiences and current circumstances in the host country;

identify refugees with potential resettlement needs and assess their vulnerability;

conduct a full Refugee Status Determination (RSD);

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<sup>52</sup> In its factual accuracy response, the Home Office stated: “as of [sic] 25 May 2023 the number of applications unresolved stands at four.”

and conduct a resettlement interview and assess that refugees meet the criteria for resettlement, in accordance with UNHCR’s resettlement handbook before referring them to the UK for consideration.”<sup>53</sup>

- 5.44** The Home Office described the UNHCR “as the globally recognised experts in both refugee resettlement and support and a key partner for us”. There has been a strong and constructive working relationship for many years which “intensified during the ramping up of the previous Vulnerable Persons Resettlement Scheme (VPRS) in 2015.”

## Legacy schemes

- 5.45** In 2020, the UK government pledged to resettle in the region of 5,000 refugees from various countries of origin under the new UK Resettlement Scheme (UKRS), alongside the Community Sponsorship Scheme and the Mandate Resettlement Scheme. The UKRS launched in March 2021. Home Office resettlement guidance states that UKRS is accessible to refugees who have been assessed for resettlement by the UNHCR against the following resettlement submission categories:

- legal and/or physical protection needs
- survivors of violence and/or torture
- medical needs
- women and girls at risk
- family reunification
- children and adolescents at risk<sup>54</sup>
- lack of foreseeable alternative durable solutions<sup>55</sup>

- 5.46** Following the Prime Minister’s announcement of the Afghan Citizens Resettlement Scheme (ACRS) on 18 August 2021, the UNHCR was made responsible for identifying and referring refugees for Pathway 2 (P2) of ACRS. The Home Office agreed that the UNHCR would refer 2,000 Afghan national refugees, primarily among those registered in Iran and Pakistan, by March 2023.

## ACRS P2 process

- 5.47** The Home Office UNHCR team processes applications to ACRS P2. ACRS P2 applications form the majority of the team’s workload due to an absence of referrals from other resettlement schemes. For example, new referrals from the UK Resettlement Scheme (UKRS) have been paused since the COVID-19 pandemic.
- 5.48** Inspectors found the Home Office’s UNHCR team had a clear focus on supporting the applicant. Several staff members spoke of the reward in helping others in difficult circumstances overseas.
- 5.49** The process for applications to ACRS P2 is detailed in Figure 5. The majority of the ACRS P2 cases are from displaced Afghan nationals currently located in Pakistan and Iran.

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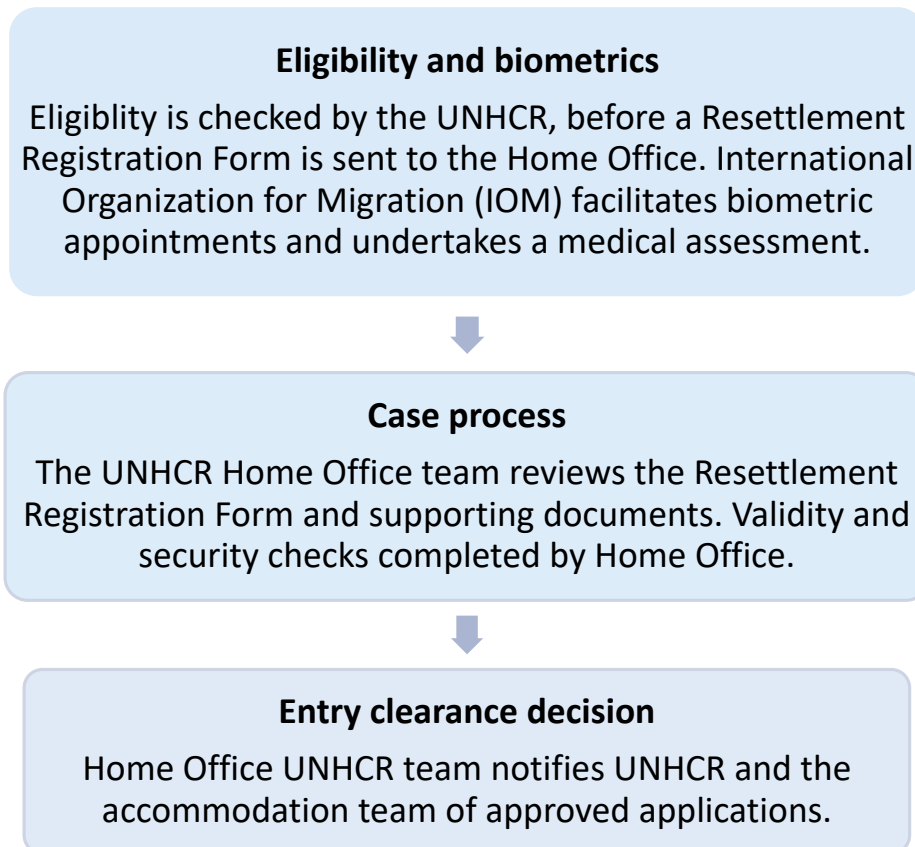
<sup>53</sup> <https://www.gov.uk/government/publications/resettlement-policy-statement>

<sup>54</sup> <https://www.gov.uk/government/publications/resettlement-policy-statement>

<sup>55</sup> <https://www.gov.uk/government/publications/resettlement-policy-statement>

- 5.50** The Refugee Resettlement Service (RRS) application is the case management system used by the UNHCR teams to process ACRS P2 applications. The aim is for the Home Office UNHCR team to use Atlas to manage their casework. However, due to casework compatibility issues, this has not been possible at the time of this report.

**Figure 5: The Home Office application process for ACRS Pathway 2**



- 5.51** The UNHCR sends ACRS P2 applications to the Home Office UNHCR team using ‘MOVEit’, a secure file-sharing platform. A file is created on RRS with the application details, which also creates a CID record. RRS is also used as an allocation tool, as caseworkers can allocate cases to themselves from the system. Any urgent cases are prioritised. Inspectors had concerns that the Home Office was carrying a potential integrity risk around caseworkers being able to pick and choose exactly which cases they would process.<sup>56</sup>
- 5.52** The Home Office UNHCR team caseworkers undertake a series of checks, which begin with the size of the family.<sup>57</sup> The standard operating procedures (SOPs) state:

“The limit for persons in a case submitted under UK Resettlement Scheme or Afghan Citizen Resettlement Scheme Pathway 2 is six. This limit has been imposed due to restrictions on available accommodation. However, larger families can still be considered if the family composition is such that the family can be split over two or more properties.”

The UNHCR acknowledged these “limitations on the case size” are a “challenge” for the applications they are able to refer to the Home Office. However, inspectors found very little awareness of this limit on family size in the Home Office UNHCR team. Indeed, inspectors were

<sup>56</sup> In its factual accuracy response, the Home Office stated: “Caseworkers take cases from the list on RRS in order of receipt unless requested by a Senior Caseworker (SCW) to do otherwise, i.e. where there is the possibility of sourced accommodation, and the process is monitored by an SCW [sic].”  
<sup>57</sup> There is a limit of six family members.

informed of examples of families with more than six members whose resettlement applications had been approved under ACRS P2.

- 5.53** The Home Office UNHCR team members told inspectors that family applications are checked with senior managers if an applicant's family size increases, in instances when additional children are born after an application has been submitted. Families can be accommodated in the UK sooner if they are prepared to be accommodated in two groups as opposed to one group. This would usually be suggested to families with adult dependant children, as opposed to those with younger children.
- 5.54** Once an ACRS P2 application has been received, supporting documents, identity documents, biometric data, proof of nationality, and the credibility of relationships are all considered. Those individuals without identity documents should have a record in the Resettlement Registration Form (RRF) to state what checks have been made to confirm their identity. The Home Office UNHCR team SOPs state: "Caseworkers should satisfy themselves that any explanation is reasonable, and where necessary, check with a senior caseworker that the case should proceed."<sup>58</sup>
- 5.55** To process an application, a case consideration table is used for each application, which contains details of the UNHCR's eligibility assessment, medical needs, travel needs, and any supporting documentation. An applicant's safety in their host country is also considered and recorded.
- 5.56** Queries are raised with the UNHCR for any discrepancies in records and details, and queries are dealt with promptly. A fortnightly tracker spreadsheet is used to record this.
- 5.57** Checks completed by the Home Office UNHCR team include referrals to SCU for checks (where required), Warnings Index checks, security checks, and CRS checks. Standard SCU checks on all applications are no longer undertaken, which was decided at ministerial level on 16 December 2022.<sup>59</sup>
- 5.58** The International Organization for Migration (IOM) undertakes a medical health assessment for each applicant to determine any medical needs and adjustments required for applicants. Caseworkers check this against the information contained on RRS and raise any discrepancies with the UNHCR.
- 5.59** Inspectors found that the Home Office was entirely reliant on the information provided by the UNHCR in the assessment of ACRS P2 applications. The Home Office's SOPs state:
- "UNHCR have access to more detailed case information ... and have a better understanding of circumstances refugees face in host countries. Caseworkers should therefore only check for an obvious error in the submission which suggests UNHCR may have submitted the case under the wrong vulnerability criteria or where there are serious and significant credibility issues. Further information should not normally be requested from UNHCR to prove that people meet the vulnerability criteria they have been referred under."
- 5.60** Some members of the Home Office UNHCR team reported that if there are credibility concerns, this is raised with the UNHCR. Efforts are made to identify any trends in the circumstances reported in applications to explore if there are wider issues causing any patterns. This

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58 Home Office Afghan resettlement caseworker standard operating procedures.

59 OPI 1332: SCU checks process change for UKRS, ARAP and ACRS.

information is captured on CID and sent back to the UNHCR in a spreadsheet. However, Home Office senior caseworkers reported they had never refused an ACRS P2 application.

- 5.61** At the final stage of processing an application, the Home Office UNHCR team refers issued applications to the Home Office's accommodation team.

## Caseworker accreditation process

- 5.62** Caseworker training involves an induction day, followed by shadowing of caseworkers for a few weeks, until a caseworker can process cases independently. UNHCR training courses and conferences are also available.
- 5.63** The Home Office UNHCR team has a caseworker accreditation process. Caseworkers with the necessary skills and experience can become accredited caseworkers and be given the capability to sign off their own decisions. The SOPs state that "unless the caseworker has acquired accreditation, senior caseworkers must review every case considered by caseworkers."
- 5.64** Caseworkers achieve accreditation when a senior caseworker agrees that a standard of quality, accuracy, and consistency has been met. Once a caseworker has become accredited, assurance checks should be undertaken on 20% of their decisions by their manager.
- 5.65** Inspectors questioned the efficiency of this process. Senior caseworkers acknowledged that most of their work involved reviewing decisions made by unaccredited caseworkers. As accreditation is the standard to aspire to, inspectors were unclear as to why more caseworkers had not been accredited. EO caseworkers were frequently described as experienced staff members, but at the time of the inspection, only one of eight caseworkers on the team had been accredited.

## 'Flipping' of cases

- 5.66** On 29 September 2021, the UNHCR wrote to the Home Office setting out the volume of Afghan nationals in need of resettlement and made five recommendations for the operation and management of UKRS and ACRS, which in some part was: "To maintain the integrity of the resettlement program, and to ensure resettlement spaces are preserved for refugees with the highest protection needs and vulnerabilities in the country of asylum...."

"As of 1 January 2021, there were over 2.6 million registered Afghan refugees and asylum-seekers worldwide, including 1.4 million in Pakistan and 780,000 in Iran. In addition, some 2.9 million Afghan civilians were internally displaced within Afghanistan. Since January 2021, an additional 635,000 Afghans were displaced within Afghanistan due to conflict. While there have been some new arrivals into neighboring [sic] countries since the Taliban took over Afghanistan, UNHCR has not yet seen significant refugee movements."

- 5.67** The UNHCR had identified a number of Afghan nationals that had been submitted for consideration under the UKRS who were located in Turkey, Iran, Syria, India, Sri Lanka, Malaysia, and Indonesia. They had already been either accepted for resettlement pending the availability of suitable accommodation or were awaiting an initial decision.
- 5.68** The UNHCR recommended that the Home Office prioritise those cases for final processing and departure under the new ACRS.

- 5.69** The Home Office made the operational decision to bring the delivery of all Afghan-related resettlement under ACRS. It explained to the ICIBI:
- a. “Refugees are still considered for resettlement to the UK in the same way as UKRS, i.e., matched to settled accommodation and receive the same integration support from an LA [local authority].
  - b. The tariff paid to LAs, as a contribution towards integration support, is the same for UKRS and ACRS with the same statement of outcome requirements. The only difference is that the tariff is paid over 3 years rather than 5, with a higher payment in year 1. This is a reflection of those resettled under ACRS being granted immediate ILR [indefinite permission to stay] since the scheme opened (with those resettled under UKRS originally granted 5 years limited leave), but still recognising the need for support over a multi-year period.”
- 5.70** In May 2022, advice was submitted to the Home Secretary setting out the proposed delivery approach for ACRS P2 and the implications for the UKRS scheme. This included the need to transfer cases currently on UKRS to ACRS. This was referred to internally by the Home Office as ‘flipping the cases’:
- “These individuals are currently in protracted situations, in a number of host countries. UNHCR recommends prioritisation of these cases for final processing and departure, meaning we can launch the Pathway with immediate effect and fulfil our commitment to launch in ‘Spring 2022’. Individuals in this cohort will receive the revised 3-year tariff attached to ACRS rather than the existing UKRS tariff (which is the same funding but over a 5-year period).”
- 5.71** The decision to flip the cases was made by the Home Office in November 2021, but the change was not implemented on caseworking systems until June 2022. Notes were not added to the electronic case records to show that the case had been flipped and the reason for the change. However, the case type was changed from ‘UKRS’ to ‘ACRS’.
- 5.72** Inspectors spoke to decision makers about the direction they were given regarding the flipping of cases from other resettlement schemes to ACRS. Decision makers explained that they were told it was a decision made by senior managers, which they believed was based solely on nationality. Decision makers explained that, whether an application was made under the UKRS or ACRS scheme, it did not impact their caseworking and that they would treat the application in the same way.
- 5.73** The Home Office stated that 44 impacted family groups, which included 187 people, were changed to ACRS case types on the Home Office’s Casework Information Database (CID).
- 5.74** Inspectors carried out file sampling of 15 ACRS referrals. Eleven had been decided, three were undecided and one had been withdrawn. The cases included applicants that had been outside Afghanistan for several years prior to the launch of ACRS. This included a case in which the applicant’s parents had fled to Iran in 1985. See case study 1.

## Case study 1: 'Flipped' legacy case

### Summary

The applicant is a female in her 30s who was born in Iran but is an Afghan national. Her parents fled to Iran from Afghanistan in the 1980s. Her mother died while she was in her teens and her father was deported from Iran. She is a single female without family support and is living in fear of sexual and financial violence in Iran. Due to her Hazara ethnicity, she feels that she would be in danger from the Taliban if she returned to Afghanistan.

In November 2019 she was accepted on to the Gateway Protection Programme – under the category of 'women and girls at risk' and 'lack of foreseeable durable solutions'. According to CID audit records, she was moved by the Home Office to the UK Resettlement Scheme in March 2020.

In March 2022, her case notes state "flagged as urgent for resettlement".

There are no notes on the system to record the fact and reasoning for moving the applicant to ACRS. However, CID audit records reveal that the applicant's case type was changed from UKRS to ACRS on 21 June 2022.

In November 2022, the applicant relocated to the UK under Pathway 2 of ACRS.

### ICIBI comment

The family of this female was displaced prior to the war in Afghanistan, and therefore prior to the cohort of people that ACRS was designed to support. While clearly vulnerable and in need of resettlement, it does not appear that she has been placed at heightened risk by recent events in Afghanistan, such as the UK's withdrawal, which forms the basis for the intention of the policy. In this regard, resettlement under one of the other resettlement schemes would appear more appropriate, given that numbers under ACRS are capped.

### Home Office response

This is one of the 'flipped' ACRS2 cases.

The Home Office provided a narrative explanation of the 'flipping' of Afghan cases from UKRS or other resettlement schemes to ACRS, including details of who authorised the decision, when, and the rationale behind that decision as part of the further evidence request.

There are no further comments to add.

## Impact on cohorts

**5.75** Inspectors sought information from policy teams about the decision to 'flip' cases. It was explained:

"The policy [ACRS Pathway 2] intent is to support those people at risk of the Taliban takeover. The risk includes the usual risk for refugees and also because they worked closely with us or for us. It is in part for working with the UK, but it is also to support refugees."

**5.76** However, policy officials were surprised to hear that this had led to the referral of individuals that had never been to Afghanistan being included in the cohort. One policy official told inspectors, "my view is that referrals for people that weren't born there should not be on that scheme."

**5.77** The guidance published by the government states that ACRS 2 is for vulnerable refugees that “have fled Afghanistan”,<sup>60</sup> and that the focus of ACRS is for those people who remain in Afghanistan or the region.<sup>61</sup> Inspectors were provided with examples of approved applications that involved individuals who have never been to Afghanistan or have lived outside Afghanistan for decades and were not affected by the UK withdrawal.

## Biometric waivers

**5.78** As part of an entry clearance or a permission to stay application, applicants must supply their biometrics, which is usually a photograph of the applicant’s face and images of their fingerprints.<sup>62</sup> Biometric information is used to establish a person’s identity and to search for individuals across other datasets for security and identity purposes.

**5.79** For those overseas, biometric data is taken at a Visa Application Centre (VAC) when an applicant’s Visa Application Form (VAF) is submitted.

**5.80** In some circumstances, a biometric waiver can be granted whereby biometric information does not need to be collected at the VAC and can be obtained at the UK border prior to entry to the UK. This can be due to medical grounds, compassionate and compelling circumstances, and when it is in the interest of the UK’s economy or reputation.<sup>63</sup> There is currently no VAC in Afghanistan. Applicants in Afghanistan must travel to third-country VACs to provide their biometric data.

**5.81** In response to the ICIBI’s request for evidence on the availability and viability of the biometric waiver process, the Home Office stated: “There is not a formal process for biometric waivers for AR [Afghan resettlement] Schemes.”<sup>64</sup>

**5.82** This is in contrast to information from Home Office policy officials who told inspectors that “it is possible to request a biometric waiver.” Furthermore, on 9 June 2022, the High Court ruled that the Home Office is obligated to consider exercising discretion to waive or delay the requirement to enrol biometrics prior to an application.<sup>65</sup>

**5.83** Inspectors asked the Home Office how many applicants had been granted a biometric waiver. The Home Office responded that it has not granted any biometric waivers to applicants under Afghan resettlement and relocation schemes.

**5.84** When inspectors sought clarity on the number of requests for waivers that the Home Office had considered, it replied:

“The Caseworking team have not received any bio-waver [sic] requests directly from applicants. They were asked by Appeals and Litigation colleagues to look at three litigation cases where lawyers had raised the question of a bio-waiver to be considered as part of their claim. Litigation colleagues asked if the Caseworking Team could look at a decision in principal [sic] for the cases on the basis of information held at that point, as part of the process of Litigation colleagues refusing the bio-waiver request. There were no actual applications in these cases. Visa applications had not yet been lodged with biometrics, so nothing was recorded on Proviso.”

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60 <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

61 <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

62 [Biometric information: introduction \(accessible\) - GOV.UK \(www.gov.uk\)](#)

63 [Biometric information - enrolment \(publishing.service.gov.uk\)](#)

64 Home Office response to the ICIBI’s further evidence request for information on biometric waivers.

65 R (S & Anor) v Secretary of State for the Home Department & Ors <https://www.bailii.org/ew/cases/EWHC/Admin/2022/1402.html>



# Governance

## Assurance

- 5.85** Inspectors requested evidence of the Home Office’s assurance activity for Afghan resettlement schemes. A ‘data quality check guidance’ document referred to recording any data quality issues on a spreadsheet. The aim was to identify any potential trends in errors to consider if any additional training was required to support caseworkers. For the JACU IC team specifically, there was also a dip sampling guidance document, which referred to how casework is checked for accuracy.
- 5.86** A document provided by the Home Office stated that the assurance target for ARAP and ACRS is that 10% of decisions are to be dip sampled after a decision has been made. The decisions and notes must be checked for data entry errors, that the correct process was followed for any criminality or security concerns, and that the decision was made in the correct category.
- 5.87** However, inspectors were concerned that assurance of decisions made for ARAP, ACRS Pathway 1 and ACRS Pathway 3, were limited. Inspectors found little evidence that the assurance documents available were utilised. A Home Office manager told inspectors: “There’s not a need to assure cases, if someone has been deemed eligible by MOD or FCDO then in theory, that should not be an issue.”
- 5.88** New JACU IC staff have 100% of their cases checked until an HEO manager has agreed to sign off the member of staff.
- 5.89** However, staff from the JACU IC team reported that once people were trained, “they were making the wrong decisions”. This was confirmed by a dip sample undertaken by staff within the JACU IC team, which resulted in incorrect decisions being overturned. Based on the evidence provided by JACU IC team managers, inspectors were not confident that the assurance process in place for 100% checks prior to staff working on cases independently was robust enough to ensure accuracy.
- 5.90** Some staff reported they did not receive any feedback, and if there were errors these would be recorded in a group chat only rather than issues being addressed with individuals initially. One Home Office manager admitted that they were unsure as to whether records were kept of assurance checks on application decisions. Another Home Office manager reported that no one was undertaking any checks on case assurance.
- 5.91** Furthermore, junior grades have taken the initiative to instigate an assurance process using a spreadsheet, after errors had been noted, and because there was not a process in place to mitigate this. One Home Office manager reported that while daily data quality checks were undertaken, dip samples of work did not occur as often as they should.
- 5.92** Inspectors found little evidence of assurance in the JACU OOC team. While there were checklist guides available that could be used to undertake dip samples of cases for accuracy and quality, there was little evidence that this framework was utilised. Examples of this included a lack of logs to monitor the quality of decisions made, a lack of any assurance for management grades, a lack of performance targets for the team, and a lack of ECM review targets. For the assurance measure that is in place, since October 2021, no decision to grant or refuse an entry clearance has ever been overturned at the ECM review stage in the JACU OOC team.

- 5.93** The Home Office's UNHCR team send the data of their completed cases to the SCU every month. The SCU undertakes a dip sample to ensure that every case that has been raised to the SCU has been escalated appropriately, and that the decision not to escalate certain cases to the SCU is correct. The Home Office's UNHCR team reported that 100% of cases that had been raised to the SCU were raised correctly.
- 5.94** The Home Office UNHCR team uses the Resettlement Operations Decision Quality Assessment Tool to check cases. However, this does involve manual entry, and the system is not connected to Home Office casework systems. These checks, undertaken by senior caseworkers, involve a recheck of the case, and liaison with the UNHCR and the IOM when required. The check covers safeguarding and vulnerability considerations, eligibility, the case assessment, and the overall decision.

## Performance management

- 5.95** Inspectors found little evidence of performance management of the processing of cases to Afghan resettlement routes. One Home Office manager gave the rationale for not having a team target as the fluctuating intake of applications.
- 5.96** However, the possibility of having a time target per case to monitor the team's productivity does not appear to have been implemented. One staff member within the JACU IC team imposed their own time limit to monitor their team's progress.
- 5.97** JACU IC team AO staff did not have any performance targets. However, for different tasks, EO staff reported there were time targets of one hour to process a case. One Home Office manager stated: "there was no formal performance management in place" and that "while there were basic outputs in terms of decision making ... it did not mean there was actual accountability behind it."
- 5.98** Staff in the Home Office UNHCR team were unsure of how their performance was managed and did not always receive general casework feedback. There was a general focus on the quality of decisions rather than quantity. One Home Office manager explained that feedback was provided in relation to experience, and so those that were experienced did not receive feedback due to the thoroughness of their work. Inspectors observed that experience was no guarantee of thoroughness.

## Policy

- 5.99** JACU IC team staff reported that the rationale behind policy or management decisions was not always explained to staff, and staff did not fully understand why decisions or certain approaches are taken by the Home Office. Inspectors were concerned to find instances of caseworking decisions and processes taking place outside policy or without formal process documents that are auditable and part of a corporate record.
- 5.100** ACRS is not part of the Immigration Rules, and so permission to enter the UK is granted outside the Rules. Inspectors were told that additional family members of ACRS main applicants are considered using Immigration Rules Appendix FM: family members,<sup>66</sup> as a "starting point" for "guidance". A Home Office manager explained that this was decided and communicated to decision makers verbally, as it was "a discussion about the policy amongst ourselves."

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<sup>66</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-family-members>

## Conclusions

- 5.101** There is poor governance of the processing of applications to Afghan resettlement schemes. There are few quality or numerical targets, or measures in place to monitor performance, and some teams have none. This is in contrast to the ICIBI expectation that time and quality standards are met through service level agreements and published targets.
- 5.102** There is little evidence of assurance of the processing of ARAP, ACRS Pathway 1, and ACRS Pathway 3 applications by the JACU. Assurance guidance documents are not utilised consistently to record and assess decision quality and data accuracy. Home Office managers rely heavily on checks made by other organisations, to the detriment of the Home Office's own assurance process. This does not fully meet the ICIBI's expectation that quality assurance measures are seen to be effective.
- 5.103** The Home Office's ability to process in-country cases efficiently has been impacted by poor IT systems. Home Office managers did not request access to the Casework Information Database for some caseworkers. This meant caseworkers had to telephone Operation PITTING evacuees, including British citizens, to confirm their immigration status. IT issues have resulted in some applications made in the UK being severely delayed, and some applications are still unresolved.
- 5.104** It is sensible that the Home Office worked in conjunction with the UNHCR in an effort to ensure the integrity of the resettlement of refugees. However, the Home Office unilaterally moved 187 Afghan UKRS applicants to ACRS without their knowledge or consent and without informing the applicants affected. Furthermore, this decision was not recorded in the case records and failed to consider, or at least keep an audit trail of the considerations, the impact the tariff change would have on those affected, as referred to in 5.69.
- 5.105** There are some applications that do not appear to fit the policy intent of ACRS. Some applications involve individuals who have never been to Afghanistan or have lived outside Afghanistan for decades and were not affected by the UK withdrawal. Other resettlement schemes may be more appropriate for such individuals, particularly as there is a cap on the number of ACRS applicants.
- 5.106** In a High Court ruling, the Home Office averred that it would consider exercising discretion to waive or delay the requirement to enrol biometrics prior to an application being made. However, there is no formal biometric waiver process in place for Afghan resettlement schemes. Therefore, no biometric waivers have been requested or issued according to data provided by the Home Office.

## 6. Inspection findings: the decision to pause issuing entry clearances

### Use of bridging hotels

- 6.1** In October 2022, the Home Office informed inspectors that ‘housing supply’ was one of their main challenges for the Afghanistan resettlement and relocation schemes. It was explained that this was due to the complex needs of the cohort and the large size of Afghan families, a shortage in the supply of appropriate housing, and reliance on local authorities (LA) to bring forward property pledges. Furthermore, local authorities had significant demand for housing: resettled Ukrainian nationals, those resettled under the UK Resettlement Scheme (UKRS), those in the asylum system, and the domestic population.
- 6.2** While there is a statutory duty for local authorities to provide accommodation for asylum seekers, there is no such responsibility for those relocating to the UK under Afghan resettlement and relocation schemes.<sup>67</sup> Instead, local authorities receive funding from central government if they choose to participate in the schemes.<sup>68</sup> It was explained to inspectors that LAs were sometimes reluctant to participate. A manager involved in resettlement said, “Some [LAs] already have high asylum populations in their area. They cannot absorb any more migrants; they might have disproportionate numbers in their area already.”
- 6.3** In response to the ICIBI’s call for evidence, one stakeholder working in a local authority highlighted the challenges faced by local authorities:
- “There is already huge pressure and significant challenges to house homeless people already in the UK, and it is the same pool of houses that are available to those in the Afghan resettlement schemes.
- ... The funding is generous and welcomed, but the claims process is labour intensive for LAs. Spreadsheets with numerous tabs and slightly different ways of working per scheme are not ‘intuitive’.”
- 6.4** Following Operation PITTING (OP), most arrivals had been accommodated in ‘bridging accommodation’ pending a move to settled accommodation. A senior manager noted that “scrutiny on hotels used for asylum seekers” had not extended to their use for resettlement. By November 2022, the official felt that there had been a shift in ministerial interest to the use of hotels for all arrivals:
- “Every month the MOD ran military flights and usually had 150-200 people on each.... After the flight which was due in November, the Prime Minister made it clear it was to be the last Voyager flight that people should come in [on] and go to hotels. The aim was any ARAP arrival would go straight into service family accommodation [Ministry of Defence accommodation for military families].”

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<sup>67</sup> <https://www.gov.uk/government/publications/asylum-accommodation-requests-policy/allocation-of-asylum-accommodation-policy-accessible>

<sup>68</sup> <https://www.gov.uk/government/news/funding-boost-for-councils-as-new-afghan-resettlement-plans-set-out>

- 6.5** Home Office teams described the operational difficulties they faced if they continued to issue entry clearances while unable to house arrivals without the use of bridging hotels, thereby making new arrivals homeless.
- 6.6** A senior manager in the Home Office told inspectors:
- “...the PM said no one else is to come and go in hotels. The challenge around that is that was apparently said during a conversation between Number 10 and MOD and although we have asked repeatedly for an audit trail which sets this out clearly, we have never seen it as a direction from Number 10. All we have seen is reference to it [the conversation] subsequently in submissions that have gone to the Home Secretary. That original steer has never been shared. It has been hard to work through ‘what does that mean for us?’. When the direction is that no one should come and go into hotels, does that mean no one should come over at all? It is difficult to unpick, and we were concerned that by granting visas, we were enabling people to travel to the UK, as there is nothing to stop them arranging their own accommodation or presenting as homeless. So, we took an operational decision to pause issuing visas, not case consideration.”
- 6.7** In early November, resettlement teams sought clarity from the Home Secretary’s office. They were told:
- “In light of the direction as set out by the Prime Minister and the conditions he has posed on new arrivals, as well as the question mark surrounding ACRS – can we slightly tweak this advice to reflect the change of policy – I think to reassure ministers that new arrivals under either route will not be placed into hotel accommodation going forward.”
- 6.8** In November 2022, RAF flights for ARAP and ACRS applicants from Islamabad were suspended unless accommodation was available for them on their arrival in the UK.
- 6.9** On 24 November 2022, operational managers in the Home Office took an operational decision to process applications to the point of issue and then hold them without issuing a decision until they had received confirmation that accommodation was available that would allow them to travel. Applications that merited refusal were not held and were served with a refusal decision.
- 6.10** Inspectors were first informed of this decision verbally by a senior manager on the first day of the onsite phase of the inspection (7 March 2023). On the same day, inspectors wrote to the Home Office to request a copy of the instruction that was sent to decision-making staff advising them to process applications to the point of issue, but not to issue the entry clearance.
- 6.11** The Home Office responded the same day advising that no written instruction was issued to decision-making staff, as the instruction had been communicated verbally. The Home Office enclosed with their response an email chain between the managers to demonstrate where the decision was made and authorised.
- 6.12** On 23 November 2022, a manager with responsibility for operations wrote to a senior manager, stating:
- “With the suspension of flights from Islamabad for ARAP applicants, until they have SFA [service forces accommodation] accommodation arranged, are you happy for us to revert processing to the point of issue and then holding cases until we have confirmation that they can travel? This is less work for ECOs than issuing and then having to re-issue.

Our preference would be the latter however proceeding straight to issue is not a big deal either.”

The senior strategic manager replied on 24 November, stating:

“I agree we should revert to processing to point of issue and then holding.”

The Senior Civil Servant for Afghan resettlement also responded on 24 November 2022, advising that they concurred with the senior strategic manager.

**6.13** While the use of the term “revert” may imply that a pause had been implemented previously, inspectors found no evidence that the issuing of entry clearances had been paused prior to November 2022.

**6.14** On 13 December 2022, the Prime Minister made a statement to the House of Commons on illegal migration in which he outlined a five-point plan to clear a backlog of nearly 100,000 asylum applications by the end of 2023.<sup>69</sup> The third point of the plan was an intention to end the use of hotels to house asylum seekers. The Prime Minister stated:

“Third, it’s unfair and appalling that we are spending £5.5 million every day on using hotels to house asylum seekers. We must end this. So, we will shortly bring forward a range of alternative sites such as disused holiday parks, former student halls, and surplus military sites. We have already identified locations that could accommodate 10,000 people and are in active discussions to secure these and many more. Our aim is to add thousands of places through this type of accommodation in the coming months – at half the cost of hotels.

At the same time, as we consulted on over the summer ... the cheapest and fairest way to solve this problem is for all local authorities to take their fair share of asylum seekers in the private rental sector. And we will work to achieve this as quickly as possible.”

**6.15** The statement did not reference the use of hotels for Afghan resettlement and relocation schemes. Inspectors asked the Home Office for a timeline of events leading up to the pausing of decision making in Afghan resettlement cases. In response, the Home Office provided the following timeline (quoted in full):

“20 December 2022

The Prime Minister / Home Secretary stated that no further Afghan Nationals (under ARAP / ACRS) are to be resettled unless suitable accommodation is available in the UK; ‘suitable’ is either temporary or settled accommodation, but not hotels. The implication from their direction is that although MOD / FCDO will have determined eligibility, visas should not be issued until accommodation has been identified.”

**6.16** Inspectors asked the Home Office for “A copy of any written instructions received by the Senior Civil Servant (SCS) regarding the directive from the Prime Minister’s Office relating to accommodation in Afghan resettlement schemes and the subsequent pausing of decision making in Afghan resettlement cases that they received from the PM regarding pausing of applications”. The Home Office provided the following response:

“There are no written instructions received.”

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<sup>69</sup> <https://www.gov.uk/government/speeches/pm-statement-on-illegal-migration-13-december-2022>

- 6.17** On 25 January 2023, a submission was made by policy staff to the Home Secretary, titled ‘Mitigating legal risk of pause on issuing visas to inflow of Afghans eligible under Afghan Relocations and Assistance Policy (ARAP) and Afghan Citizens Resettlement Scheme (ACRS) as a result of ceasing bridging hotel use’. In the submission, a senior Home Office official advised ministers that the Home Office was operating an unpublished policy that should be remedied as soon as possible.
- 6.18** In 2011, the operation of a ‘secret’ or unpublished policy, which was at variance with the published policy of the Home Office, was found to be unlawful by the UK Supreme Court in the case of *Lumba*.<sup>70</sup>
- 6.19** The submission stated: “The Prime Minister directed in December 2022 that no new ARAP arrivals can be put into hotels, and we are advised this applies equally to ACRS arrivals from your (Home Secretary) response to [name redacted] submission of 22 November.” The Home Office told inspectors that there was no audit trail of any such directive by the Prime Minister.
- 6.20** Policy staff made two recommendations to ministers on how to mitigate the risk of reputational damage to the Home Office:
- Option 1 – Lift the pause and issue visas and facilitate travel to the UK
  - Option 2 – Maintain a brief pause pending agreement of policy changes.
- 6.21** Option 2 was put forward as the preferred option with a warning that careful consideration was needed for managing how the pause was communicated to the public. It was suggested: “The pause could be communicated in a relatively light-touch way, for example via online changes to GOV.UK guidance for both ARAP and ACRS but would avoid a ‘secret policy’ challenge which we currently risk.”
- 6.22** By early February 2023, the Home Secretary agreed to take forward an alternative option for accommodation for further development and acknowledged that making the pause public was unresolved. The Minister for Immigration was also in agreement and said additionally that “Bridging hotels are strictly prohibited and that [the] Department for Levelling Up, Housing and Communities (DLUHC) must either pre-arrange accommodation before departure or provide funding for individuals to do so independently which would be piloted with 250 people.”
- 6.23** On 28 March 2023, Johnny Mercer MP, the Minister for Veterans’ Affairs, made a statement in the House of Commons. In it he made it clear that the use of hotels was never designed to be a permanent solution. He explained that the emotional impact on Afghan families and the financial implications was unsustainable.
- 6.24** He reiterated the government’s determination to fulfil its strategic commitments to Afghanistan and set out what had been done to support those already in the UK:
- “We have ensured that all those relocated as a result of Operation PITTING have fee-free indefinite leave to remain [indefinite permission to stay], giving them certainty about their status, entitlement to benefits and the right to work. Operation Warm Welcome<sup>71</sup> has ensured all those relocated to the UK through safe and legal routes have been able to access the vital health, education and employment support they need to integrate into our

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70 <https://www.bailii.org/uk/cases/UKSC/2011/12.html>

71 <https://homeofficemedia.blog.gov.uk/2021/10/29/factsheet-operation-warm-welcome-in-action/>

society, including English language training for those who need it, the right to work and access to the benefits system.”<sup>72</sup>

- 6.25** He announced the government’s intention to invest £35 million in funding to enable local authorities across the UK to provide increased support for Afghan households. In England the Local Authority Housing Fund was increased by £250 million, the majority of which would support moving Afghan households into settled accommodation.
- 6.26** Individuals and families accommodated in bridging accommodation would be contacted from the end of April 2023 and provided with at least three months’ notice of when their access to bridging accommodation would end. “That will crystallise a reasonable timeframe in the minds of our Afghan friends, with significant support from central and local government at every step as required, together with their existing access to welfare and the right to work, to find good, settled places to live in the longer term...”<sup>73</sup> Furthermore, he stated: “Where an offer of accommodation can be made and is turned down, another will now not be forthcoming.”<sup>74</sup>
- 6.27** In response to a parliamentary question,<sup>75</sup> which included a request for assurance that those currently in Afghanistan or Pakistan would not be disadvantaged by the announcement, the minister acknowledged the number of applicants waiting in Pakistan for accommodation to be made available to them in the UK:
- “...we have over 1,000 people waiting to get to the UK, is clearly and demonstrably unacceptable. The challenge is that we cannot do anything about that if we have people in hotels in this country who have been offered accommodation and should have taken that accommodation, but are still residing in hotels, not allowing us to unblock that pipeline.”
- 6.28** Until the statement on 28 March 2023, it had not been made public that the extension of closing bridging hotels would impact Afghan resettlement routes. The pause to issuing entry clearances had not been publicly communicated, nor had changes been made to the Immigration Rules or ACRS policy requiring applicants to have accommodation arranged in the UK. A senior manager in the Home Office acknowledged that the pausing of entry clearances should “absolutely” be communicated to applicants but commented that while the decision on how to announce the pause was with ministers, their “hands were tied.”
- 6.29** Prior to the decision to pause the processing of all applications, there were 14 paused cases. In the month of November 2022, 200 cases were paused. As of 28 February 2023, a total of 578 cases were paused and awaiting issue, as set out in Figure 6.<sup>76</sup>

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72 <https://hansard.parliament.uk/Commons/2023-03-28/debates/E45C9029-4DF0-4B5A-996D-59DDF0728050/details>, Johnny Mercer MP, 28 March 2023.

73 <https://hansard.parliament.uk/Commons/2023-03-28/debates/E45C9029-4DF0-4B5A-996D-59DDF0728050/details>, Johnny Mercer MP, 28 March 2023.

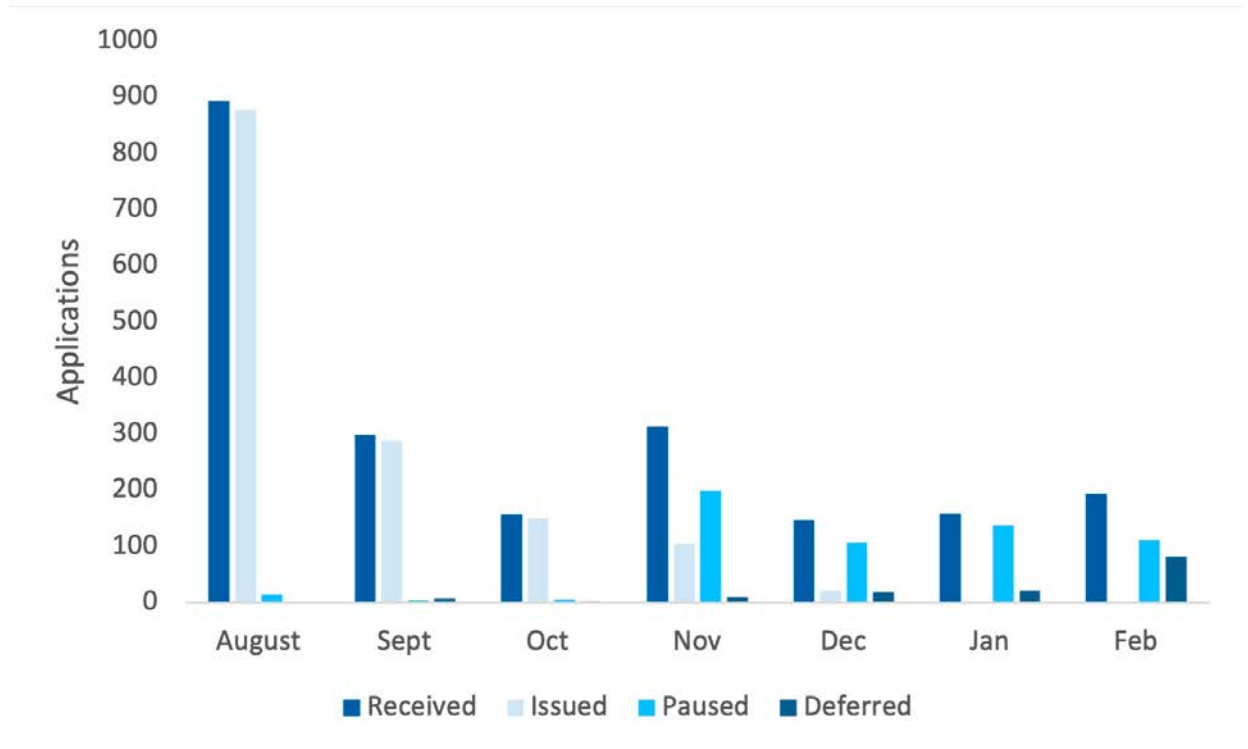
74 <https://hansard.parliament.uk/Commons/2023-03-28/debates/E45C9029-4DF0-4B5A-996D-59DDF0728050/details>, Johnny Mercer MP, 28 March 2023.

75 <https://hansard.parliament.uk/Commons/2023-03-28/debates/E45C9029-4DF0-4B5A-996D-59DDF0728050/details> Question from Dan Mercer MP, column 848.

76 Between August 2022 and February 2023, two applications were withdrawn.



**Figure 6: Entry clearance applications between August 2022 and February 2023**



**6.30** From September 2022, inspectors were in regular contact with Home Office officials leading the Afghan resettlement schemes, including a meeting to update inspectors on developments in the Afghan resettlement schemes which was held in early February 2023. The Home Office did not make inspectors aware that the issuing of Afghan resettlement entry clearances had been paused from November 2022, until inspectors were onsite on 7 March 2023.

**6.31** On 31 March 2023, the Chief Inspector wrote to the Director General of UK Visas and Immigration and the Second Permanent Secretary at the Home Office to seek further clarification on the pause to the issuing of visas. In their response of 19 April 2023, the Second Permanent Secretary provided an update on when the Home Office anticipated restarting the issuing of visas:

“We continue to work with other government departments, Local Authorities and other partners, securing additional funding from HMT to facilitate and source suitable accommodation, in order to be able to welcome more Afghans. As detailed above we are only facilitating ACRS and ARAP third country arrivals to the UK where suitable accommodation can be secured ahead of arrival. This includes where individuals can be supported to arrange accommodation themselves.”

**6.32** It remains unclear as to when the pause will be made public.<sup>77</sup> However, the Chief Inspector was told:

“We are working at pace to provide formal communications explaining the announcement of 28 March to those in third countries. However, it is important to get this communication right and ensure that any messaging to those in third countries aligns with that provided to those in bridging hotels in the UK. This is being coordinated across Government, with policy, operational and legal colleague contributions.”

<sup>77</sup> The Home Office, in its factual accuracy response, stated: “The policy change is that future arrivals to the UK on the Afghan Schemes will only be brought to the UK when suitable accommodation, other than bridging accommodation, is available. The delay to issuing visas is not the policy change, but rather an operational practicality, which will be included in any communications with eligible individuals.”

## Conclusion

- 6.33** The decision to pause visas was initially taken due to the cancellation of charter flights. The pause was sustained on the basis of a lack of accommodation and in order to prevent those relocated to the UK being made homeless. The well-documented pressures on local authorities to provide suitable accommodation has been a frustration for all those involved in the Afghan resettlement schemes.
- 6.34** However, the Home Office has failed to communicate or publish its current policy regarding the pause to issuing entry clearances for Afghan resettlement cohorts. Thereby, the Home Office is effectively operating a secret policy, and applicants are unknowingly failing to meet accommodation requirements which are not stipulated in either the Rules or policy.

## 7. Inspection findings: data

- 7.1** Inspectors were provided with and reviewed a significant amount of data over the course of this inspection. It was often difficult for inspectors to gain a sense of certainty or to have confidence that the data provided an accurate representation of the truth. While inspection activity covered the various routes and parts of the Afghan resettlement schemes, the area that was most distinctly impacted by the ineffective and inefficient use of data was the cohort relocated to the UK as part of Operation PITTING.

### Operation PITTING data

- 7.2** As part of the emergency evacuation of Afghanistan in August 2021, the UK facilitated the expedited relocation of 15,000 individuals in a multi-agency exercise called Operation PITTING (OP).
- 7.3** Managers told inspectors that before OP “...there was no process for any of this ... what we hadn’t done was work with other people and [we needed to] set up a process to share information with them [the Ministry of Defence]. There was a big spreadsheet, but it wasn’t set up to deal with the volumes ... even before PITTING, it was too unwieldy, and during PITTING, it was a case of getting people on to planes.”
- 7.4** Those eligible to be relocated to the UK under OP were ‘called forward’.<sup>78</sup> This included those who had already been granted entry clearance, and those who had been deemed eligible and selected for relocation to the UK alongside their family members.
- 7.5** The ‘call forward lists’, consisting of data from both the Ministry of Defence (MOD) and the Foreign, Commonwealth and Development Office (FCDO), contained the names and details of those being relocated. A manager working with data in the Home Office explained:
- “When the evacuation happened, people were arriving with no documents due to the threat of being picked up with a passport; it was too risky. They were contacted to get to the airport [in Kabul] and get on the flight, so travelled with nothing. When they got to the hotel they were checked from the list and then their details were sent to UK Visas and Immigration, who then conducted checks.”<sup>79</sup>
- 7.6** As the evacuation of Kabul proceeded at pace in a deteriorating political and security situation, the collection of data relating to individuals being relocated began to fragment and diverge. The same Home Office manager explained:
- “There were language barriers. Details could be taken four or five times: MOD spreadsheets, FCDO spreadsheets, and who got on the flight. It was hard to keep track. They created new spreadsheets. We had lots of information from the same departments. The numbers added together to 15,000, including British citizens, but we couldn’t say they

<sup>78</sup> The process of being approved for evacuation from Afghanistan and invited to travel to the airport.

<sup>79</sup> A hotel in Kabul was used as a check-in and reception centre by the MOD for those awaiting relocation.

were the same people. It was impossible to tell. Matching was difficult due to misspellings or name structures and name order.”

- 7.7** On arrival in the UK, those who were not British citizens or did not hold a prior entry clearance were given permission to enter for an initial period of six months. Normal border security checks were conducted by Border Force for everyone who arrived under OP, including capturing the biometrics of those who were not British citizens. For those with no passports, permission to enter was granted using Home Office form IS116, which served as evidence of the individual’s permission to be in the UK.<sup>80</sup> This cohort would be required to submit a further application for permission to stay in the UK prior to the expiry of the permission to enter granted by Border Force.
- 7.8** Inspectors found that across the areas of the Home Office involved in the Afghan resettlement schemes, there was an almost universal acceptance that the quality of data had caused issues, which will be discussed in this chapter, and that, from OP onwards, there did not appear to be a ‘single version of the truth’ that any of the government departments involved were working from.
- 7.9** At all stages of this inspection, it was readily apparent to inspectors that data recorded through OP had been suboptimal, and there was a lasting impact on the efficiency, effectiveness, and consistency of the Home Office’s processing of applications to the Afghan resettlement schemes.

## Operation PITTING aftermath

- 7.10** In the immediate aftermath of OP, those relocated by the UK government were largely housed in ‘bridging hotels’, aside from the numbers who were able to be otherwise accommodated by other, normally private, means.<sup>81</sup> The role of the Home Office then turned to regularising the immigration status of those who were relocated. Following a change in policy in September 2021, all those relocated under ARAP were entitled to indefinite permission to stay, including those who were already in the UK with limited permission to enter.
- 7.11** In order to facilitate a grant of indefinite permission to stay, the Home Office began to work with the data it had, including the ‘call forward’ lists received from the MOD and FCDO, and which were organised by the route the applicant was eligible for: ARAP, or where they were not ARAP eligible (having worked for the MOD), the Afghan Citizens Resettlement Scheme Pathway 1 (ACRS P1).
- 7.12** Staff involved in this work defined working from these lists as “chaotic” and described the detailing of “people who were evacuated on various lists to work from ... it would specify if [they were] ARAP or ACRS, but it wasn’t always clear due to the chaos of evacuation.” Furthermore:

“Our work stemmed from the lists we got from the MOD and FCDO and our work was only as good as the quality of the information we were given. The team was unnecessarily hampered and stressed and under pressure based on the fact that the information wasn’t

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<sup>80</sup> Form IS 116 – Record of Leave to Enter is a paper document that allows Border Force to grant permission to enter the UK to a non-EEA national who either has no travel document or has a travel document that is not recognised by the UK government.

<sup>81</sup> “‘Bridging accommodation’ includes all accommodation procured by the Home Office for the purpose of providing temporary accommodation for those brought over to the UK as a result of events in Afghanistan following the fall of Kabul in August 2021.” (<https://www.gov.uk/government/publications/bridging-accommodation-closures/bridging-accommodation-closures>)

clear, and our partners couldn't comment on certain things and whether it was 100% accurate or not."

- 7.13** Working through these lists, Home Office staff contacted applicants and completed online application forms for indefinite permission to stay. This process required either confirming that the name and date of birth data already held was accurate, or capturing biographical and other personal information, such as telephone numbers, email addresses, and addresses. In addition, the Home Office arranged appointments for applicants to attend a UK Visa and Citizenship Application Services (UKVCAS) centre to provide their biometrics (consisting of their photograph and fingerprints).<sup>82</sup> Once this process was completed, the application was uploaded onto the Home Office's Atlas caseworking system for decisions to be made.
- 7.14** At the time of the inspection, the bulk of applicants known to, and traceable by, the Home Office had been contacted and new applicants were only contacted to complete an online application as part of remedial work relating to 'hard-to-reach cases', which will be discussed later.
- 7.15** Once a decision to grant permission was made, a biometric residence permit (BRP) was issued to the applicant. These are usually delivered to applicants by post, but for Afghan resettlement cohorts, BRPs were delivered to bridging hotels and given to applicants by Home Office Liaison Officers (HOLOs).

## Military Aid to the Civil Authorities (MACA) data

- 7.16** In September and October 2021, the Home Office set up an exercise to capture the data of OP evacuees housed in bridging hotels. This involved the deployment of military personnel under the Military Aid to the Civil Authorities (MACA) strategy. Military personnel attended bridging hotels and captured applicant information using digital questionnaires. These questionnaires included basic information, such as biographical data, location, and also captured data from British citizens. The data was added to Home Office caseworking systems.<sup>83</sup> A manager in the Home Office described to inspectors the reasons for this exercise, the process, and some of the challenges that followed:

"This created another data set which had changed again. Spelling, again, was an issue. People had given birth in the UK. People had left managed quarantine hotels, some moved and swapped rooms, and some just left hotels. We could not reconcile it. We said the MACA data from hotels is the start point and uploaded that data to the Case Information Database (CID [Casework Information Database]). It was then in a place where it could be stored and was auditable, and then revisited and made formal. But there was limited information. There was no passport or ID information. So, the new records were skeleton records. We created a new CID case type – Afghan Resettlement – to track the resettlement journey – that was its sole purpose. By October there were 15,000 records on CID. Brits were taken out as they were not subject to immigration control. Some went on in any case. The MACA data just gave us what people said about themselves and some British citizens would have said what they needed to get out of Afghanistan."

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<sup>82</sup> Despite fingerprints being taken upon arrival in the UK, each applicant over the age of five had to provide new biometrics in order to submit their applications for indefinite leave to remain.

<sup>83</sup> "The ability of civil authorities, such as local authorities and the Police, to respond to a wide range of potential crises (from widespread flooding to a major terrorist event in the UK) has been strengthened significantly in recent years. However, military assets may sometimes be required to provide assistance in specific circumstances. This is known as Military Aid to the Civil Authorities (MACA)." ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/62496/Factsheet14-Military-Aid-Civil-Authorities.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/62496/Factsheet14-Military-Aid-Civil-Authorities.pdf))

- 7.17** There were varying views on the quality and accuracy of the data collected by the MACA exercise. Caseworking staff told inspectors that the “teams gathering that data didn’t appear to understand the importance of accuracy, as a large part of what was gathered was subject to errors” and that “MACA data was very sort of slapdash”.
- 7.18** A senior Home Office manager said the MACA exercise, an attempt to mitigate the poor data situation, made things “worse by the mitigation, which was put in place, to send MOD to hotels to assess who was there”. They added that this was not a criticism of the MOD who had led the MACA exercise, as they were unaccustomed to working in the immigration field.
- 7.19** In terms of successful outputs, the MACA exercise was only successful in allowing the Home Office to contact those it surveyed. There remains a cohort of applicants relocated to the UK with whom the Home Office has not maintained contact, which will be discussed later in this chapter.

## Working with poor data

- 7.20** Home Office staff of various grades and in various roles expressed a ‘make do’ attitude in terms of having to deal with various issues with data quality. Inspectors considered that, broadly, staff had persevered to deliver a quality service as quickly as they could for their customers across all aspects of Afghan resettlement. Additionally, there was broad acceptance of the humanitarian focus of the Home Office work in relation to this. Despite this positive attitude, inspectors considered the wider impacts of working with poor data.
- 7.21** During onsite observations, inspectors witnessed staff working from a spreadsheet consisting of a list of applicants who should have been granted indefinite permission to stay after being relocated to the UK under OP. Inspectors observed many entries with incomplete data, such as missing dates of birth.
- 7.22** To mitigate this, caseworkers checked CID to try and trace the applicant and confirm their immigration status, updating the spreadsheet with any salient information. In some cases, they cross referenced applicants with other systems to try and find caseworker notes to determine if they were the same person. Caseworkers commented that they encountered cases where the phone number and email address were not correct, and they were unable to contact the applicants.
- 7.23** If caseworkers could not trace the applicant on Home Office systems, it was assumed they had arrived as part of OP, and caseworkers would either email or telephone applicants to invite them to apply for indefinite permission to stay or take an application over the telephone. This also applied to those that had overstayed their initial six-month grant of permission to enter on Code 1a, either endorsed in their passports or on Home Office form IS116.<sup>84</sup> For those who arrived under OP and already held indefinite permission to stay prior to the evacuation, caseworkers would check to confirm they had not been out of the Common Travel Area for two years or more, which would mean their entitlement to continuing indefinite permission to stay would have lapsed in accordance with paragraph 18 of the Immigration Rules.<sup>85</sup>

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<sup>84</sup> Code 1a is a passport endorsement which permits a migrant to remain in the UK for a defined period, without any immigration restrictions other than a time limit.

<sup>85</sup> “If you stay outside the UK, Ireland or the Crown Dependencies (Isle of Man, Guernsey and Jersey), for 2 or more years at a time your ILE or ILR will automatically end.” <https://www.gov.uk/guidance/indefinite-leave-to-remain-in-the-uk>,

**7.24** It was apparent to inspectors from observations that the poor quality of data and CID records had complicated this area of work, and caseworkers had to use a range of investigative methodologies to complete the overall data picture.

## Home Office Liaison Officers

- 7.25** Inspectors were told about some of the mitigating measures that the Home Office had put in place to address failings in the quality of data. One of these was for Home Office Liaison Officers (HOLOs)<sup>86</sup> to confirm details directly with applicants when they were accessible to officers in the bridging hotels. One member of staff reported that they “found ways around it ... We could work out which hotels they were in. We could ask the HOLOs to go and ask them,” and “I have been able to track people down based on the hotels that they were in. It’s not ideal but it’s possible.”
- 7.26** In May 2022, the Home Office formalised the role of HOLOs in data collection, and they began to collect data to “ensure data is consistent with who is in hotels. If they [applicants] find their own property, sometimes, they do not tell people. So, they [HOLOs] capture the numbers each week. Also, the data shows who is in bridging accommodation, family sizes, and age groups so they can match them to suitable properties.”
- 7.27** When working with data, a key issue for Home Office caseworkers was knowing which of the Afghan resettlement schemes applicants were on. In many instances, applicants had self-declared the scheme that they perceived themselves to be eligible for (either ARAP or ACRS) and this was not corroborated at the point the data was collected. One caseworker explained: “At the beginning, [we were] working from what people were self-declaring as the cohort they were in. In terms of resettling people, it’s a challenge because of the properties.” They commented that “HOLOs do data collection and they can say which cohort. So, data has improved.”
- 7.28** Inspectors considered that HOLOs were instrumental in the successful delivery of the Home Office’s plan to cease using bridging hotels for Afghan resettlement cohorts by August 2023. The Home Office should seek to monopolise on the work this team has invested in building relationships with both applicants and other external stakeholders to support Afghan nationals relocated to the UK.

## Correcting errors

- 7.29** Inspectors observed that in instances where caseworkers identified data errors, they were not always corrected. Several reasons for this were put forward, including a general acceptance of the poor data quality and, in some cases, a lack of access to the full range of Home Office caseworking systems.
- 7.30** A caseworker told inspectors that “there hasn’t been a process” to correct issues. They also advised that CID, which might be used to verify someone’s identity and where most errors were apparent to inspectors during the inspection’s file sampling exercise, was only used “as a reference ... We’d use CID to check eligibility, they don’t enter notes or casework or anything like that. Maybe it’s because we work across both CID and Atlas that it hasn’t been identified as

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<sup>86</sup> HOLOs are Home Office staff who work within bridging hotels and whose role is to support those being accommodated. They undertake various functions, such as clarifying information, dispatching BRPs, but also in other ways, such as supporting Universal Credit enrolment, leading job surgeries and reassuring families. (<https://homeofficemedia.blog.gov.uk/2021/09/13/acrs-other-routes/>)

an issue.” Another operational manager stated: “[there was] no system to resolve data errors as they are encountered.”

- 7.31 Where errors were identified, it was apparent to inspectors that caseworkers sought to verify details with supporting evidence, especially where these related to important biographical information such as names and dates of birth. Caseworkers told inspectors that they were “not just taking their [applicant’s] word for it, we are doing what we can with the data and resources available.” This might include, where available, checking across caseworking systems, contacting other government departments, or contacting applicants directly.
- 7.32 During onsite observations, inspectors asked caseworkers what they would do should they encounter an error in data, or the quality of a case record. Inspectors were not assured that any action would be taken, and it was apparent that no process was in place to correct erroneous data. CID entries are accessible on Atlas and will remain so even after the Home Office has decommissioned CID for caseworking. There is a risk that Home Office caseworkers of the future, or stakeholders who rely on information from the Home Office, might refer to inaccurate records.

### Biometric residence permits (BRPs)

- 7.33 Where poor data led to applicants being issued indefinite permission to stay with the incorrect biographical details, they could contact a dedicated mailbox operated by the Joint Afghan Casework Unit (JACU). Operational staff described “it might be the date of birth they question, in which case we deal with it, or do an age assessment or ask them to provide date of birth documentation. Sometimes it’s spellings of names, such as Mohammed with a ‘Mohammed’ or ‘Muhammad’.”
- 7.34 As part of its evidence return for this inspection, the Home Office provided a document summarising a breakdown of the workload stemming from this mailbox. For the week commencing 10 October 2022, a total of 50 queries were received, with 37 (74%) of these pertaining to BRP queries. Inspectors were also provided with an internal guidance document detailing how to process issues with BRPs.
- 7.35 Figure 7 provides a summary of the mandated Home Office response to common issues.

**Figure 7: A summary of processes for responding to BRP queries**

Issue	Process
<b>Incorrect address</b>	BRP cards are being sent to the wrong address, usually when individuals have moved on from their bridging hotel to a private address. BRPs are sent to a Home Office address and then distributed to hotels by HOLOs.
<b>Biographical details incorrect</b>	Applicants have incorrect names, dates of birth, the wrong BRP card, or they have been granted under the wrong category. When the Home Office is notified, cards are then cancelled and reissued. Applications can be reworked by caseworkers using Atlas. The BRP error team can deal with all errors on BRP cards when an applicant has evidence of the error on their card. Without evidence for the change, it is referred to the caseworking team and dealt with on a case-by-case basis.



Issue	Process
<b>Untranslated documents</b>	The BRP error team is unable to consider any documents which need translating and therefore will send these to us. It will be our job to liaise with big word [sic] to have these documents translated. As of October 2022, [we are] currently in the process of setting up big word accounts to have these documents translated.

- 7.36** During onsite observations, inspectors were shown an internal spreadsheet which recorded the inflow of queries to the Afghan caseworking mailbox. It was noted that this spreadsheet recorded 16 live pieces of work which related to BRPs, of which six (38%) pertained to errors with biographical data. Inspectors considered that while there was a robust process in place for data errors on BRPs to be corrected, the volume of corrections was high, which was indicative of the impact of poor data.

## Safeguarding and age-dispute cases

- 7.37** A potential risk of having poor-quality data, including incomplete records and a lack of overall confidence in the accuracy of biographical data, is the potential for safeguarding issues to arise.
- 7.38** Home Office managers expressed concerns such as translating and transliterating documents from Pashto and Dari, where dates of birth are erroneous, and the need for complicated age assessment processes where dates of birth were borderline to adulthood. Additionally, where:
- “...children are being presented as somebody’s child to get them to the UK, and then, after recording them as one person’s child, six months later they claim to be someone else’s child. It leads to very difficult safeguarding areas: to accept at face value a child is another family’s child, then that leads to you starting to need documents as evidence, which brings you into a whole new issue trying to get documents from another country.”
- 7.39** This approach engaged both the requirement to be evidentially flexible, owing to the way in which this cohort of applicants was relocated to the UK, alongside the need to secure the UK border and safeguard children. In cases where doubts existed, further evidence or action was taken and inspectors concluded that those in decision-making roles had the best interests of applicants in mind but were, on the whole, balanced against the need to provide a secure border.
- 7.40** Inspectors considered that the Home Office is not, by itself, responsible for the poor data that has arisen from the provision of inaccurate biographical data, from either applicants or other external parties. Inspectors, however, were not assured that enough corrective action had been taken in a timely manner to address the data issues. Had the Home Office prioritised data cleansing, many of the issues encountered might not have occurred. For applicants, there are very real consequences when these situations arise. The Home Office needs to strike the right balance between the safeguarding of minors and the need to deliver immigration decisions efficiently, effectively, and consistently.

## British citizens

- 7.41** A key issue stemming from the provision of poor data, which inspectors identified during analysis of a random sample of 150 Afghan resettlement case records, was that the children of British citizens, who may have acquired their own entitlement to British citizenship by descent,

may have been granted indefinite permission to stay (IPS) in error.<sup>87</sup> British citizens have the ‘right of abode’, an unconditional right to enter and live in the United Kingdom. As such, no conditions of entry can be imposed on them.<sup>88</sup>

## Case study 2: British citizen children granted IPS

### Summary

The sponsoring parent in this case was naturalised on 9 May 2007. He was previously an Afghan citizen. Despite this, his nationality on CID is still shown as ‘Afghanistan’ rather than British citizen.

In accordance with s2(1)a of the British Nationality Act 1981, any children born outside the UK after his naturalisation will be British citizens by descent.

However, in this case, the applicant has seven dependant children born after the date of his naturalisation. Four of these children have been granted indefinite permission to stay (IPS).

The three other children born after his naturalisation are recorded as British citizens on Home Office systems and have not been granted IPS.

The sponsor has four Home Office records – three with the same spelling of his name and one with a slightly different spelling.

The grants of IPS have been linked to the wrong case record for the British sponsor – they have been linked to a spurious case record with a date of birth of 01/01/2999, which is not searchable on Home Office systems.

The CID sponsor record shows the sponsor as the parent – which would indicate the four children above should not have been granted indefinite permission to stay as they were in fact British citizens by descent at the time of their birth.

### ICIBI comment

Despite being a British citizen through naturalisation, the sponsor is recorded with the nationality of ‘Afghanistan’.

Four of the seven children born after his naturalisation have been granted IPS in error.

In accordance with s2(1)a of the British Nationality Act 1981, any children born outside of the UK after his naturalisation will be British citizens by descent. British citizens are exempt from immigration control and do not require permission to enter or remain in the UK in accordance with s1(1) of the Immigration Act 1971.

All dependant children should be linked to the correct sponsor record, especially when they are minors, and inspectors would expect to see further consideration of the best interests of the child in accordance with s55 of the Borders, Citizenship and Immigration Act 2009.<sup>89</sup>

<sup>87</sup> Where a British citizen obtains citizenship other than by descent, their children born overseas will be British citizens by descent in accordance with s2(1) of the British Nationality Act 1981.

<sup>88</sup> Section 1(1) of the Immigration Act 1971 exempts from immigration control persons who have the right of abode in the UK. This means that they do not need to obtain the permission of an immigration officer to enter the UK and may live and work without restriction. The right of abode is a statutory right, which a person either has or does not have, depending on whether they meet the conditions in section 2(1) of the 1971 Act. (<https://www.gov.uk/government/publications/right-of-abode-roa/right-of-abode-roa>)

<sup>89</sup> S55 requires that immigration functions “are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom” <https://www.legislation.gov.uk/ukpga/2009/11/section/55>

## Case study 2: British citizen children granted IPS (continued)

### Home Office response

These applications were decided by the Afghan in-country caseworking team.

1. It is confirmed that the four children born after the sponsor's naturalisation in 2007 are in fact British citizens.
2. Settlement (ILR) applications should never have been completed for the children and they should not have been granted ILR.
3. Settlement applications were not completed for the other children perhaps because the sponsor was aware that they were British (already had British passports), so he did not complete applications for them.
4. The record with a birth date of 2999 is not related to the sponsor record; it is the responsible adult record which auto-populates from the AUK application form. When viewed on Atlas where the application was completed, the sponsor is the correct person, but this is not showing on CID.
5. The BRP cards have now been cancelled. The individuals have been informed that the applications were completed and ILR issued in error as they are already British citizens. They will also be provided with advice about how to apply for a British passport.

CID and Atlas will be noted with the issues and actions taken, so if queries arise in the future clarification can be provided.

- 7.42** During onsite observations, a caseworker told inspectors that they had encountered British citizens who were granted IPS under ARAP. The caseworker said this was partly due to all in-country caseworkers not having access to CID to check the status or immigration history of applicants. This corroborated what inspectors had identified during file sampling. A senior manager told inspectors: "It is the British nationals that are the tricky group. British nationals here have been given ILR [indefinite leave to remain] ... people have been given ILR that should not have been."
- 7.43** Inspectors were also told by caseworkers that if there is any uncertainty, they have the option to telephone claimed or suspected British citizens and ask for copies of passports or other evidence to confirm their nationality. During a focus group, a team of caseworkers told inspectors that there had been instances when they had spoken to British citizens on the phone, stating: "they don't understand why we do not have access to their passport information and so people will question us and think we are a scam." Inspectors considered this to be a reputational risk to the credibility of the Home Office.
- 7.44** It was apparent that the haste at which data was compiled during OP to support the evacuation had directly impacted this area of Home Office work. A senior manager explained: "There has always been a disconnect from Op PITTING data as British citizens and people that were born afterwards [were also recorded in the data] and so they would not necessarily appear on our CID records. It is a challenging landscape to get that all consistent."

## Data cleansing

- 7.45** In May 2022, the Home Office began a project to cleanse the data it held on those resettled to the UK as part of OP. A senior manager in the business area told inspectors: "The data cleansing exercise is a huge ongoing piece of work. So, I am much more confident now, but would I put

my mortgage on it? Not at this point, as we haven't finished that data cleansing exercise." Another manager told inspectors: "[There are] about 2,000 plus duplicates in the data now it has been cleansed ... We got to a figure of roughly 21.5k [people evacuated from Afghanistan, in total] once the data was cleansed."

**7.46** Inspectors interviewed a Home Office manager concerned with the cleansing of the OP dataset. They explained that when the cleansing exercise was set up, it was insufficiently resourced. They described the scope of the cleansing exercise as requiring five months to be completed but were asked to complete it in two months. When resource was made available to the team, they were not familiar with CID and had not received the required training.

**7.47** The same manager explained the approach that had been taken to data cleansing:

"We took a methodical approach to cleansing. We had a 30-minute call each week to discuss what to cleanse that week. We monitored the impact on data and then reviewed it for nine months. Every week we are going through to get the records straight."

Inspectors were reassured that this was adequate and being well managed and that improvements in the data, evidenced through Home Office transparency and Home Office migration data, were apparent. There was, however, still some work to be done to finalise this project.

**7.48** Inspectors considered that, with the reduction in the number of OP cases to process, the impact of poor data on day-to-day processing operations was minimal. However, only through cleansing will the Home Office be able to report more effectively and use more accurate data to support its strategic and operational decision making. Inspectors considered it crucial for the Home Office to adequately resource and maintain a focus on reaching a single version of the truth to be able to mitigate, as far as is possible, the risks to those it has lost contact with and to support decision making at a strategic level. Reporting of data will be discussed later in this chapter.

## The hard-to-reach cases

**7.49** A key impact of working with poor data, and an impact which inspectors considered carried a significant amount of risk, lay in what the Home Office referred to as 'hard-to-reach' cases. This cohort consists of those with whom the Home Office has lost contact. The Home Office cannot be confident that all of these applicants have valid permission to enter or stay in the UK or are otherwise exempt from immigration control.

**7.50** Evidence provided to inspectors, and summarised below at Figure 8, shows the cohort that the Home Office records as having unconfirmed immigration status as at 28 February 2023.

**Figure 8: Home Office data showing applicants to the Afghan resettlement schemes with unconfirmed immigration status**

Adult	Child	Unknown	Grand total
1,265	856	4	2,125 <sup>90</sup>
60%	40%	~0 %	

90 In its factual accuracy response, the Home Office indicated that as at 15 May 2023, the grand total figure is approximately 700.

The data was caveated with the annotation, which inspectors considered added doubt to the veracity of the reported number: “it is relevant to note that ongoing data quality checks will continue to reduce this number. For any yet to be confirmed statuses this does not categorically mean ‘status unknown’ as some of this data may well turn out to be totally erroneous (entered in error) and not actually represent a person in the UK.”

**7.51** In its evidence return to inspectors, the Home Office provided a narrative explanation of the hard-to-reach cohort. It stated:

“The starting figure of c.2000 people was approximate and based on the number evacuated against how many had not submitted their ILR applications after being in the UK for several months.... We believe the current figure to be less than 50, although this is based on the number granted ILR in line with the starting figure, so will need to be caveated. This data was not robust and is based on numbers alone, so we do not have a breakdown of adults and children.

We have details of 28 people we have not been able to contact or have lost contact with, so have been unable to complete their ILR casework. However, notes are on systems so if they should come to light it will be clear they remain eligible, subject to security checks. The breakdown for this is 17 adults and 11 children.”

However, how the Home Office had arrived at this position was not evident to inspectors, especially given the data provided and outlined in Figure 8, above.

**7.52** Inspectors considered the potential risk and impact to this cohort, with reference to recommendation 22 of the Windrush Lessons Learned Review.<sup>91</sup>

**7.53** It was apparent to inspectors that the Home Office was trying to rectify this situation. Various Home Office staff spoke of the efforts that are being made to track down the hard-to-reach cohort, and a summary of these is available in Figure 9.

**Figure 9: A summary of the actions taken by the Home Office to find the hard-to-reach cases**

Area	Actions
<b>Stakeholders</b>	Engaging with LAs to establish if they have had more dealings with people who bypassed the Home Office.
	Cross-referenced data against the data of other government departments, such as the Department for Work and Pensions.
<b>Outreach</b>	Conducted outreach in hotels and with communities in summer 2022 to encourage people to come forward.
<b>Comms</b>	Published communications on GOV.UK and promoted the helpline to encourage people to come forward. <sup>92</sup>

91 Recommendation 22 – “The Home Office should invest in improving data quality, management information and performance measures which focus on results as well as throughput. Leaders in the department should promote the best use of this data and improve the capability to anticipate, monitor and identify trends, as well as collate casework data which links performance data to Parliamentary questions, complaints and other information, including feedback from external agencies, departments and the public (with the facility to escalate local issues). The Home Office should also invest in improving its knowledge management and record keeping.” <https://www.gov.uk/government/publications/windrush-lessons-learned-review>

92 The helpline is now closed but was for non-British nationals in Afghanistan and the family members of a non-British national in Afghanistan. This helpline provided information and support on the UK’s evacuation efforts, as well as general information about the relocation schemes. It was not for registering interest for the scheme. (<https://www.gov.uk/guidance/support-for-british-and-non-british-nationals-in-afghanistan>)

Area	Actions
Consultation	Sought the views and experience of the Home Office’s Windrush lessons-learned team.
Mitigation	Engaged with Immigration Enforcement about the potential for people to present or claim to have arrived during OP.

**7.54** There was some optimism among caseworkers that these efforts were paying off, with one member of staff saying: “In the last few weeks, several people have come forward who have been able to complete application forms. They don’t have leave as their six-month leave has run out. People are worried to come to the Home Office in this instance. Our communications were aimed at putting them at ease and to help as much as possible.”

## Causes

- 7.55** Numerous reasons were offered as to why there remained a hard-to-reach cohort that had come to require a special project. Home Office staff told inspectors:
- “Some of those on the spreadsheet have been found to be British citizens. Some of them simply are untraceable.”
  - “There have been some people who have not come forward. They’ve come straight off the plane to live with family, or in private accommodation – there is only so much we can do but they are not to be punished.”
  - “People did just make their own way so there are people who are not accounted for, which is a risk to our work. The risk is that this may come to light years after the fact and who knows what will happen with that.”
  - “Highly possible they are a British national. When the MACA went in there were a lot of British nationals in the hotels and so they would not have come to us for an immigration application.”

## Compliant environment assurance

- 7.56** Inspectors were concerned that, in the very worst-case scenario, someone from the hard-to-reach cohort may go undetected for a significant period. In this instance, and with a data-cleansing exercise working through the multiple datasets the Home Office has to reach a single version of the truth, there is significant risk that there may be no record of someone having been relocated to the UK under OP and later being found to have no permission to remain in the UK. Inspectors considered that it was imperative that the Home Office put in place adequate measures to ensure those affected would not be subjected to enforcement action at any point in the future.
- 7.57** Inspectors queried this with operational Home Office staff and their managers. Staff stated that they “have received assurance that no enforcement action is going to be taken against them ... we don’t consider them to be illegal entrants, if they weren’t part of this particular cohort then yes [they would be illegal entrants].”
- 7.58** It was also apparent from speaking with staff that there was a strength of feeling about the potential for this situation to arise: “That has been raised and we don’t want it [referring to the impact of immigration policies on the HMT Windrush generation] to happen again. They are looking ... about how we contact people and what we put on CID. The JACU team are looking

at a reach-out process. You can't ever say you're fully confident. But I know that the operations teams are having these conversations."

- 7.59** Inspectors reviewed guidance available on the Home Office's internal guidance system for Immigration Enforcement (IE). Two instructions were found that support the claims that IE had been alerted to what actions to take when encountering those who claim to have been relocated to the UK as part of OP. An 'ICE Cast'<sup>93</sup> dated 24 February 2022 stated:

"AFG [Afghan nationals] or TCNs who arrived under Op Pitting **no enforcement action should take place**."<sup>94</sup>

An 'ICE Cast' dated 24 February 2022 stated that:

"An Information to Note is being drafted to be sent to the Home Secretary for a clear steer and until then and with immediate effect if any enforcement teams encounter any AFG [Afghan nationals] or TCNs [third-country nationals from anywhere other than the UK or Afghanistan] who arrived under Op Pitting **no enforcement action should take place**."<sup>95</sup>

- 7.60** This document was updated on 04 March 2022 to state:

"Following the ICE Cast issued on 24/02/2022 regarding our approach to any Op Pitting cases, we wanted to confirm that while we are still waiting for clarity on our enforcement approach regarding Op Pitting cases there may be circumstances where individuals want to return voluntarily or claim asylum. At present **no enforcement action** should be taken on any Op Pitting case (Afghanistan or Third Country National) until informed otherwise."

- 7.61** Inspectors were unable to find any further instructions relating to this matter or that a clear steer had been given by the Home Secretary.<sup>96</sup> Equally, the Home Office guidance documents for the Afghan resettlement schemes do not offer any further insight.

- 7.62** Despite there being assurances that IE had been alerted, salient information was not recent and had not been updated since March 2022, despite there being significant work undertaken since to identify the hard-to-reach cohort. Inspectors questioned whether an Immigration Officer would be aware that such advice existed to be able to follow it properly. However, further updates offering more context about the size of this cohort would allow IE to make more effective decisions when, and if, it encounters those affected in the future.

- 7.63** Inspectors identified some concern among Home Office staff that, perhaps, more could be done to prevent those with whom the Home Office had no contact, and who had failed to regularise their immigration status in the UK, being subjected to enforcement action in the future. Caseworkers involved in working on the hard-to-reach cohorts commented that: "The comms I imagine will continue, but I'm not sure if we are going above and beyond."

- 7.64** Senior managers offered a more optimistic view:

"We are going through it, and we are cleansing it and we are looking at it carefully to see who needs status that has not come to us yet, so that Windrush scenario you are talking

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93 An ICE Cast is an operational instruction issued to staff working in Immigration Enforcement.

94 ICE Cast 24 February 2022.

95 ICE Cast 24 February 2022.

96 In its factual accuracy return, the Home Office provided further operational instructions from late 2022 and 2023. These stated that the Home Office had commenced and then suspended the removal of third-country nationals evacuated under Operation PITTING, where such individuals had not regularised their stay in the United Kingdom. The instructions also provided general guidance for enforcement staff on the handling of enforcement activity relating to the Operation PITTING cohort.

about. I worked on Windrush, and it is in the forefront of my mind. I can see where some parallels can be drawn as there are a group of people who are here but have not had the opportunity to obtain the correct status. We are looking at outreach and we are in a much better position than we were.”

“We have done a huge amount of work to address this ... We have been very conscious of a ‘Windrush-esque’ scenario. When we were developing outreach, we were talking to the Windrush lessons learned team to see what we could learn. It is not in my nature to be complacent. But we have done what we can in cross-referencing data across departments, talking to people in hotels, and everything we can to reinforce the messaging with enforcement colleagues about potential for people to present or claim to have presented in that time during PITTING. I hope this is enough, but I am open to suggestions as to ways we can mitigate but I think we have done as much as we can possibly think of to capture everyone.”

- 7.65** On 12 December 2022, the Home Office announced its aim to move Afghan nationals to other bridging accommodation when a specific hotel was due to be closed.<sup>97</sup> Inspectors considered that the mass dispersal of the some 9,000 Afghan nationals from bridging hotels represented a significant risk to the Home Office.<sup>98</sup> The Home Office should remain alert to this risk and should ensure that a robust system exists to record exactly who is being moved from bridging hotels and ensure it captures the full range of biographical and personal information it needs to deliver effectively and efficiently.

## Risks and implications

- 7.66** Evidence provided to inspectors included numerous risk registers for different business areas engaged in Afghan resettlement. Strategic and local risks registers are produced and reviewed monthly, co-ordinated through the RASI Risk and Assurance Team.
- 7.67** A document entitled ‘RASI Risk Management Guidance’ sets out principles for reporting on risk. One of the criterion states that risks should be “evidence-based” and “makes good use of data, Management Information [sic] and expertise available”.
- 7.68** In the Afghan resettlement area, the Home Office is currently carrying a strategic risk (‘Strategic Risk 24’), which outlines in its mitigation and progress sections that risks are being managed by “data sharing and data cleansing work”. Inspectors were pleased to see an awareness of risk.
- 7.69** Furthermore, inspectors noted that none of the risk registers provided listed the potential impact of the hard-to-reach cohort becoming subject to enforcement action as a result of poor data and record keeping, despite the assurances of senior managers that they were aware of it and believed they were doing all they could.

## Internal spreadsheets

- 7.70** Inspectors identified that Afghan resettlement schemes rely heavily on a high number of internally produced Microsoft Excel spreadsheets to manage work, rather than official Home Office caseworking systems. Despite information gained from various evidence returns and onsite visits, it was difficult for inspectors to report with certainty the exact number or nature

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<sup>97</sup> <https://www.gov.uk/government/publications/bridging-accommodation-closures/bridging-accommodation-closures>

<sup>98</sup> 9,483 as specified in the last operational dataset – February 2023.



of spreadsheets in use. A member of staff commented: “It’s very spreadsheet heavy, this work. Lots of spreadsheets from hotels, local authorities, Home Office departments, so it was a case of making sure we’ve actioned everything we need to from the data. It’s been a lot of checking; we’ve had the capacity and the time to make sure we’ve covered everything.”

- 7.71** Various operational staff spoke of the limitations of Home Office caseworking systems and that “...in terms of being able to effectively manage work, we’ve relied on local information [internal spreadsheets] a lot more than Atlas.”
- 7.72** The Home Office might wish to seek the views of its workforce to understand the perceived limitations of caseworking systems, whether these are with the system itself, or the ability of users to properly use the system and reduce the need for workarounds to be put in place. Coupled with this, inspectors were concerned that not all teams had access to all the spreadsheets in use. There was also a concern that different teams were, in essence, compiling their own single version of the truth, with limited mechanisms in place to ensure consistency.

### Joint Afghan Casework Unit (JACU) – in-country team

- 7.73** Evidence provided to inspectors included a spreadsheet which was used by the JACU in-country (IC) team and was the source from which caseworkers were drawing in-country cases for consideration. A supporting cover note refers to the data on this sheet being drawn from Atlas and explains that it is also used to monitor caseworker productivity.
- 7.74** Inspectors found the quality of the spreadsheet to be lacking. It contained unclear headings and titles and a number of merged cells. Furthermore, it contained over 13,000 rows of personal applicant data which inspectors considered to be a risk, in terms of both how such a dataset can effectively be used operationally, due to the size and volume of data contained. There were 73 data errors in the spreadsheet.
- 7.75** In addition, there were obvious typographical errors and data integrity issues in some important fields, such as nationality and relationship to main applicant, where the data referred to a dependant. The nationality field contained 17 variations. The relationship field contained eight spurious words unrelated to the field topic and 74 numerous variations in spelling. Inspectors found that such errors undermined the effectiveness of the spreadsheets and made it almost impossible to extract any meaningful statistical data.

### JACU out-of-country team

- 7.76** Inspectors observed caseworkers on the JACU out-of-country (OOC) team. This team also relied heavily on an internally produced Microsoft Excel spreadsheet. A caseworker explained: “Everything is reliant on the tracker [internal spreadsheet] being correct, there are only five or six of us that are using it ... It is in our interest to keep it up to date.” Inspectors were advised that this tracker relied on data received from the MOD ahead of the Home Office receiving an application from the applicant. The same caseworker advised: “Post [the relevant British embassy or High Commission] send us ‘the following are going to be enrolled’. We are waiting on a load from Islamabad. Those enrolled today may come on to Proviso99 later today. Posts are telling us by email those that are going to be enrolled. We put them on the tracker to get ahead of ourselves. They aren’t included in the stats.”

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<sup>99</sup> Proviso is the FCDO-owned system used by Home Office staff to process all entry clearance applications made overseas, including those processed in the UK.

- 7.77** Inspectors noted that this spreadsheet was of a higher quality than others encountered as part of both evidence returns and onsite inspection activity. However, it was still disconnected from the caseworking system that the team used, as well as other Home Office management information systems. Inspectors noted that a large number of cases on this spreadsheet were erroneously recorded as having been made in 2022 rather than 2023.<sup>100</sup>
- 7.78** Inspectors found that there was a risk that data maintained in local spreadsheets might diverge from official Home Office caseworking systems, as had happened with addresses. A member of staff told inspectors: “the spreadsheets are helpful but couldn’t tell us what information was on CID or CRS<sup>101</sup> and whether the information on the spreadsheets matches what is on CID or ATLAS.”
- 7.79** Inspectors were reassured that efforts were being made to remediate the use of local spreadsheets, especially in relation to where the Home Office would be reporting internally and externally. A manager involved in reporting advised inspectors that there was still some work to do, but the long-term intention was to move to a situation where all reporting could be completed using official caseworking systems. They stated: “Reports are still being produced to see if we can pull directly from the systems. We will still need to do something using local management information (MI) to check system reports match for quality analysis at first. But we intend to move away from local MI.”

## Reporting

- 7.80** One of the most significant impacts of the poor quality of data that ensued from OP was the inability of the Home Office to report on the Afghan resettlement schemes effectively and efficiently.

## Migration statistics

- 7.81** The Home Office published transparency data on the combined Afghan resettlement schemes on 23 February 2023. Unlike other migration statistics made available quarterly on GOV.UK that cover the various areas of Home Office work, Afghan resettlement data was not included in the quarterly statistical release spreadsheets. Instead, a narrative summary of the approximate data was provided, as shown in Figure 10.

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<sup>100</sup> In its factual accuracy response, the Home Office stated that this has already been identified as a manual data input error and has been corrected.

<sup>101</sup> Central Referencing System is a web-based system that maintains records of all entry clearance products issued overseas.

**Figure 10: Summary of Home Office transparency data: ‘Afghan Resettlement Programme: operational data’ released 25 August 2022, 24 November 2022 and 23 February 2023<sup>102</sup>**

Release date	25 August 2022	24 November 2022	23 February 2023
<b>Total arrivals</b>	<b>21,450</b>	<b>22,833</b>	<b>Around 24,500</b>
Before OP	Around 2,000	Around 2,000	Around 2,000
During OP	Around 15,000	Around 15,000	Around 15,000
After OP	Around 5,000	Around 6,000	Around 7,000
<b>Grants of indefinite permission to stay</b>			
	11,303	12,296	12,527
ARAP		5,982	6,235
ACRS		6,314	6,292
<b>Breakdown by Afghan resettlement scheme</b>			
Total ARAP			11,212
Total ACRS			7,609
Route not recorded			2,544

- 7.82** Inspectors observed that the statistics available for public information were approximate.
- 7.83** Inspectors met with Afghan nationals who raised the publication of data as an issue. They made the comparison with the data available for the various Ukraine schemes, including the frequency of how often they are updated: “Transparency, the data on Afghans, we are relying on civil society, but the Home Office is holding on to the data”, and the “dashboard for the Ukraine schemes you can see daily. Good frequency, but for Afghan, we just get ‘more information soon’.”
- 7.84** Furthermore, until the second publication of this data on 24 November 2022, the Home Office was not able to confirm the numbers of applicants who had been resettled under which route, and who had gone on to be granted indefinite permission to stay.
- 7.85** In its third iteration, the level of detail available in the publication improved somewhat. However, there remains a cohort of applicants for whom the resettlement route has not been recorded. The Home Office provided a disclaimer, which said:
- “This relates to where data has yet to be cleansed sufficiently or, for more recent arrivals, where the scheme the individual will be granted leave under is yet to be decided.”
- 7.86** Inspectors were assured that there is a positive move towards the Home Office being able to report statistics in relation to the Afghan resettlement scheme. There was also evidence that the Home Office was actively trying to improve the situation.

<sup>102</sup> <http://web.archive.org/web/20220917224103/https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data>, <https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data>, <http://web.archive.org/web/20221224010525/https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data>

## Data sharing

- 7.87** Closely related to the issue of data reporting is the ability to share data. There are multiple internal and external stakeholders engaged in the wider Afghan resettlement process, including government and non-government organisations. Their ability to deliver efficiently and effectively for applicants is improved when those who hold important data can share it confidently and securely to allow others to make the right, evidence-based decisions.
- 7.88** A key consideration for inspectors was the fact that the Home Office work in the Afghan resettlement schemes has largely been shaped by crisis. This strongly influenced the speed and nature of the Home Office’s response. The ability to share data across government, in response to an external event that required a cross-departmental response, had a significant and lasting impact. Sharing data largely relied on the back-and-forth exchange of emails. Inspectors were not assured that these emails were encrypted, although data would not have been transmitted outside of the government secure network.
- 7.89** A senior manager lamented the lack of a system to work collaboratively across government: “A huge frustration is that we were unable to have a shared cross-government database which would have mitigated against some of the problems we had earlier on. That would be a big lesson learned for the future. We were working off separate datasets, so inevitably there were going to be discrepancies.”
- 7.90** Operational managers spoke of the difficulties of capturing and sharing data across the three main government departments involved in Operation PITTING (OP).
- 7.91** Inspectors were subsequently appraised of improvements in this area. A manager responsible for reporting, when asked about what was working well, said: “Being able to work with stakeholders. Recently, being able to have joined-up working sharing data and single points of contact across teams. One version of the truth brings consistency of messaging.”
- 7.92** Other business areas spoke about successful external stakeholder data-sharing arrangements, with one area demonstrating how it shared important information with local authorities in order to smooth the provision of appropriate accommodation, explaining that when “referred, [they share] date of birth, family size, medical needs ... information is shared between themselves, the LAs will share between themselves.” Additionally:
- “There is now joined-up working with DLUHC and the Home Office analysts team producing a product to share with authorities across the Ukraine schemes, asylum and the Afghan resettlement schemes so we aren’t isolated in our own ways of working – more joined-up working.”
- 7.93** Similarly, the Home Office was able to share data more confidently with the International Organization for Migration (IOM) using the MOVEit system. This included data related to applicants, including “medical health assessments and questionnaires”, with the system being described as “secure.”
- 7.94** The ability to share information appeared to have been significantly improved owing to the ability of the Home Office to quickly confirm data and information for those being accommodated in bridging hotels, but this was not always the case:
- “I think it’s accurate now, at times through the scheme it wasn’t. The hotel population is static. I am confident in our data collection, we have 59 hotels live, we will close three this

month. The tracking of movements is more accurate, because we aren't flying people in now it is more stable."

- 7.95** There was also a sense that HOLOs had brought further benefits, including being able to provide specific data on vulnerabilities and protected characteristics: "The HOLOs capture vulnerabilities and share them with local authorities to make sure they are aware of vulnerabilities or things that will impact them when matching [them to accommodation]."
- 7.96** On data sharing, inspectors were also advised that there were plans to move from sharing data based on internal spreadsheets, to official Home Office data: "The data is sourced from local MI sheets but will move to Performance Reporting and Analysis Unit (PRAU),<sup>103</sup> but we have to check CID is correct first."
- 7.97** Inspectors queried whether the Home Office was able to provide responses to MPs' queries, subject access requests, and requests under the Freedom of Information Act 2000.<sup>104</sup> However, it was apparent that confidence in sharing this data was more nuanced; a manager working on reporting stated:

"We do reply, if we are confident, or if it's going to be in the migration statistics. If we have it, and we can share, we will, if we're confident. If we are not confident, we will say it's not available and pass it up to briefing and correspondence. It's rare we say that we don't have it. We reply to most with data."

- 7.98** The ability to share data effectively between stakeholders invested in delivering services to those resettled to the UK from Afghanistan cannot be underestimated. The Home Office is the key agency in supporting the inflow and outflow of that information. However, without confidence in the quality of its data and while it is yet to be cleansed, this comes with great risk, which the Home Office must mitigate. On confidence in the data, a senior manager told inspectors:

"It's as accurate as we can be, based on what we had, that's a difficult one, it's sort of saying, can I be confident that everyone evacuated is in our data? Possibly, people went to family. Does it match with the numbers? Yes. On the macro level, yes, I do feel confident. On a micro level, I don't know if you will, really. It was possible as we go through it, knowing how many people were evacuated. I don't know how you can do it better."

## Conclusion

- 7.99** It is evident that the collection of data following Operation PITTING significantly impacted the Home Office's operational role in administering the Afghan resettlement schemes – most notably, its ability to grant indefinite permission to stay in the UK to those evacuated from Afghanistan, wherein inspectors were frequently told of caseworkers having to find new ways of working with poor data, and of their inability to rectify errors easily. Errors in data accuracy range from minor errors with names and dates of birth to a failure to record the location of individuals repatriated to the UK and with whom the Home Office now has no contact.

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103 PRAU's primary role is to provide core management information to the Migration and Borders Mission and the operational capabilities that support it. They are experts on the key data in that area, producing analysis on how that part of the department is performing, developing, and providing hundreds of reports to operational and strategic managers alike, as well as supporting operational, policy, and analytical colleagues with countless ad hoc requests for data. PRAU also leads on publishing 'transparency data' on migration and borders performance, as well as acting as the guardian for the public release of management information more widely. (Horizon)

104 In its factual accuracy response, the Home Office added that if the information is not available, the briefing and correspondence team would apply the appropriate legal exemption and reply in those terms.

- 7.100** In both instances, the greatest impact is on the individual: whether this is someone's ability to evidence their permission to stay in the UK indefinitely, their right to rent, or their right to work; or, of greater concern, the potential for those who have not regularised their immigration status in the UK to be subject to enforcement action in an uncertain future. The potential for the latter is greater than it ought to be, and while steps are being taken to mitigate this, the Home Office needs to ensure it respects the legacy rights of individuals to whom the UK government has offered a permanent home.
- 7.101** As well as impacts on the individual, poor data impacted how the Home Office has been able to report on Afghan resettlement activity. First, Home Office managers need sound, quality data to inform their decision making and strategic planning. Second, many services provided by other government departments, local authorities, or charities and NGOs rely on the provision of accurate data to be able to target and plan for the provision of important services.
- 7.102** The Home Office is seeking to cleanse the data it has to reach a reliable dataset.

## 8. Inspection findings: equality and diversity

### Equality and diversity considerations

- 8.1** Inspectors considered whether the Home Office has due regard for protected characteristics in the processing of applications to Afghan resettlement schemes in accordance with the public sector equality duty (PSED).<sup>105</sup>
- 8.2** In carrying out its statutory functions, as set out in the UK Borders Act 2007, the ICIBI was mindful of its equality objectives when undertaking this inspection:
- to monitor and report on compliance with the Equality Act 2010 by the Secretary of State, her officials and others exercising functions relating to immigration, asylum, nationality, or customs on her behalf, including reliance on paragraph 17 of Schedule 3 of the Equality Act 2010 (exception for immigration functions)
  - to promote equality, diversity, and inclusion through ICIBI inspections
  - to eliminate unlawful discrimination, harassment, and victimisation, and other conduct prohibited by the Equality Act 2010
  - to advance equality of opportunity between people from different groups
  - to foster good relations between people from different groups
- 8.3** There has been significant litigation against the Home Office, the Foreign, Commonwealth and Development Office (FCDO), and the Ministry of Defence (MOD) around Afghan resettlement schemes. A senior Home Office manager told inspectors:
- “This is a particularly litigious group of people, as they are well represented and advised. We have been litigated against in every area of everything we’ve done.”
- 8.4** Given the public and political scrutiny of these routes and the potential for costly and time-consuming litigation, it is incumbent on the Home Office to ensure that Afghan resettlement schemes are operated in compliance with equality legislation.
- 8.5** In equality impact assessments (EIAs), the Home Office identified that both the Afghan Relocations and Assistance Policy (ARAP) and Afghan Citizens Resettlement Scheme (ACRS) contain elements of direct and indirect discrimination.<sup>106</sup>
- 8.6** In the case of the ARAP scheme, the route is only open to Afghan nationals, or the family members of Afghan nationals, as it is a requirement of the Immigration Rules that the principal applicant be “An eligible Afghan citizen”.<sup>107</sup> This directly discriminates based on race (nationality being analogous with race in the Equality Act 2010).<sup>108</sup> Those without Afghan nationality,

<sup>105</sup> Protected characteristics are defined in chapter 1 of the Equality Act 2010 as age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation. For a detailed explanation of the PSED, see annex C.

<sup>106</sup> See annex C for definitions of direct and indirect discrimination.

<sup>107</sup> As defined in sARAP 3.2 of Immigration Rules – Appendix ARAP.

<sup>108</sup> S9(1) of the Equality Act 2010.

or without an association with a person of Afghan nationality, would be excluded from the scheme.

- 8.7** Inspectors found that the Home Office was able to cite a lawful basis for this direct discrimination. Discrimination on the ground of race (except for colour) in the exercise of functions in accordance with the various Immigration Acts or Immigration Rules is expressly permitted in Schedule 3 of the Equality Act 2010.<sup>109</sup>
- 8.8** ARAP imposes direct discrimination on the ground of age. Eligible Afghan nationals must be over the age of 18.<sup>110</sup> Partners of eligible Afghan nationals must be over the age of 18.<sup>111</sup> Dependant children must be under the age of 18.<sup>112</sup>
- 8.9** Unlike other protected characteristics, direct discrimination on the ground of age can be lawful if objectively justified.<sup>113</sup> Inspectors were satisfied that there was objective justification in this case, the justification being the need to provide an effective immigration control and also to comply with s55 of the Borders, Citizenship and Immigration Act 2009.<sup>114</sup> Furthermore, in accordance with s28 of the Equality Act 2010, age discrimination is not unlawful if the discrimination arises because the applicant is under the age of 18.<sup>115</sup>
- 8.10** ACRS operates outside the Immigration Rules and, as such, the exceptions for functions under the Immigration Acts or primary or secondary legislation cannot be relied upon to justify differentiation.
- 8.11** The requirements for ACRS on GOV.UK state that those referred for resettlement should be “vulnerable and at-risk individuals who arrived in the UK under the evacuation programme”, “vulnerable refugees who have fled Afghanistan”, or “those at risk who supported the UK and international community effort in Afghanistan”.<sup>116</sup>
- 8.12** ACRS does not appear to discriminate directly on the grounds of race (nationality) as there is no requirement for an applicant to be a specific nationality or ethnic or national origin to qualify under the scheme. However, there is the potential for indirect discrimination, given the likelihood that most applicants under this route are more likely to be Afghan nationals.
- 8.13** Inspectors requested copies of any ministerial authorisations issued in respect of Afghan resettlement routes in accordance with Schedule 3, part 4 of the Equality Act 2010.<sup>117</sup>
- 8.14** A single ministerial authorisation was provided in respect of ACRS Pathways 2 and 3 only, dated 27 June 2022 and valid until the closure of ACRS. The ministerial authorisation permits the less favourable treatment of non-Afghan nationals overseas on the basis that those likely to be referred to the schemes by the FCDO or the United Nations High Commissioner for Refugees (UNHCR) are more likely to be Afghan nationals. The ministerial authorisation notes that non-Afghan nationals are not expressly excluded from either pathway. As worded, the authorisation appears to permit indirect discrimination.

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109 S17(4)b of Schedule 3 of the Equality Act 2010, and by s1 of Schedule 23 of the Equality Act 2010.

110 sARAP 3.2(b) of Immigration Rules – Appendix ARAP.

111 sRWP 1.1 of Immigration Rules – Appendix Relationship with Partner.

112 sARAP 12.1 of Immigration Rules – Appendix ARAP.

113 S13(2) of the Equality Act 2010.

114 The requirement to have regard to the need to safeguard and promote the welfare of children in the exercise of immigration functions. While there is no legal requirement to do so overseas, the Home Office as a matter of policy applies the spirit of s55 in processing entry clearance applications overseas.

115 S28 of the Equality Act 2010 states that the provisions applying to unlawful discrimination, harassment, and victimisation in s29 of the same Act “does not apply to the protected characteristic of ... age, so far as relating to persons who have not attained the age of 18”.

116 <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

117 For a detailed explanation of ministerial authorisations, see annex C.



- 8.15** Inspectors were not clear why a ministerial authorisation was required at all, as the race discrimination identified appeared to be indirect discrimination given the imposition of “a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic”<sup>118</sup> (persons who were previously resident in and have subsequently fled Afghanistan).
- 8.16** The ‘Home Office Differentiation or Discrimination Guidance’, an internal document, states that a ministerial authorisation should only be sought in cases of proposed direct discrimination, which are not otherwise authorised by primary or secondary legislation:

“Do not seek a ministerial authorisation:

- for indirect discrimination
- if the direct discrimination is already covered in the Immigration Rules or other relevant legislation, or if it is better suited to legislation (see ‘when to use legislation’)
- if you do not have a credible evidence base”

- 8.17** Indirect discrimination may be lawful if objectively justified as a proportionate means to a legitimate aim, which would negate the need for a ministerial authorisation.<sup>119</sup>

- 8.18** The Home Office reasoning in seeking a ministerial authorisation was the potential for ACRS to be interpreted as having directly discriminated on the ground of race. In the EIA for ACRS Pathway 2, the Home Office averred:

“It is arguable that Pathway 2 constitutes direct discrimination on the basis of nationality. A ministerial authorisation will be put in place to ensure this is lawful.”

However, in the alternative, the same EIA concluded that the same circumstances are likely to constitute indirect discrimination:

“There will be indirect discrimination on the basis of nationality as the vast majority of those included within the scheme will be Afghan nationals.”

This approach may well have been influenced by the significant amount of litigation against the Home Office around Afghan resettlement schemes, as referenced in the paragraphs above.

- 8.19** Inspectors noted that there was no ministerial authorisation in force for ACRS Pathway 1 (which had been used to resettle those evacuated under Operation PITTING (OP), who did not qualify under the ARAP scheme). Inspectors were unclear why the Home Office deemed a ministerial authorisation to be necessary for ACRS Pathways 2 and 3 but not ACRS Pathway 1.
- 8.20** If the Home Office considers that ACRS Pathways 2 and 3 constitute direct race discrimination, the same considerations in respect of race would apply to ACRS Pathway 1 (insofar as while there are no nationality-specific restrictions, those referred to ACRS Pathway 1 were more likely to be Afghan nationals).
- 8.21** Notwithstanding that it was arguable that the criteria of ACRS did not appear to mandate the use of a ministerial authorisation under the Home Office’s own differentiation and discrimination policy, if in the alternative a ministerial authorisation was required, that

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<sup>118</sup> S19 of the Equality Act 2010.

<sup>119</sup> S19(2)d of the Equality Act 2010.

requirement would apply to all three ACRS pathways. In this regard, inspectors found the approach taken by the Home Office to be inconsistent.

## Equality impact assessments

- 8.22** The Home Office uses equality impact assessments (EIAs) for evidence-based policy development. EIAs assist Home Office strategic managers to consider potential diversity and equality impacts both before the policy is introduced and during the lifecycle of that policy. EIAs are also important in demonstrating the objective justification for indirect discrimination.
- 8.23** EIAs are used by the Home Office to demonstrate that due regard has been given to the three strands of the public sector equality duty (PSED) in accordance with s149 of the Equality Act 2010. The three strands of the PSED are summarised in Figure 11.

**Figure 11: The public sector equality duty**

Public sector equality duty
a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010
b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it <sup>120</sup>
c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 8.24** Further information on the PSED and its application in immigration functions can be found in annex C.
- 8.25** The Home Office publishes guidance on the PSED and EIAs. This document is internal to the Home Office and is not available on GOV.UK. This document states:
- “The Home Office Executive Management Board has made it a mandatory requirement for officials to complete an Equality Impact Assessment for all policy decisions and development, and that is the way in which we demonstrate that we have had due regard to the PSED.”
- 8.26** The definition of Home Office ‘policy’ in this context is quite broad:
- “‘Policy’ must be interpreted expansively and means any of the following: new and existing policy, strategy, services, functions, work programme, project, practice and activity – whether written, unwritten, formal or informal. It includes decisions about budgets, procurement, commissioning or de-commissioning services, allocating resources, service design and implementation.”
- 8.27** Inspectors requested copies of all EIAs relevant to ARAP and ACRS. In response, the Home Office provided the documents summarised in Figure 12.

<sup>120</sup> Under schedule 18 of the Equality Act 2010, the duty to promote equality of opportunity in respect of age, religion or belief, and race (meaning nationality or ethnic or national origins) is excluded in respect of specified immigration and nationality functions.

**Figure 12: EIAs deemed relevant to ARAP and ACRS provided by the Home Office**

Completion date	Scheduled review date	Document summary
None stated	None stated	EIA considering year 1 of ACRS Pathway 2
29/09/2020	None stated	EIA considering expansion of the EGS route
12/02/2021	April 2022	EIA considering introduction of ARAP policy
20/10/2021	April 2022	Updated EIA considering changes to ARAP policy
19/05/2022	None stated	EIA considering accommodation matching process
08/06/2022	June 2023	Updated EIA considering changes to ARAP policy

**8.28** The Home Office PSED and EIA guidance states:

“Keeping the policy and PSED under review is an active process and requires keeping a watchful eye on developments which may affect the equalities impacts of the policy.”

**8.29** In respect to the ARAP process, inspectors noted that the Home Office was reviewing its EIA as the policy developed in this area. The EIA was up to date and reflected the status of the ARAP policy.

**8.30** Inspectors asked a senior manager responsible for policy development about the rhythm of review for the EIA related to ARAP routes. They stated:

“I would lie if I said it was in the diary every month. Over the last two years they have been reviewed every four to six months, normally in line with rules within the policy, which we have done quite a lot in the last two years. More frequently than others, but normally due to changes required rather than a conscious decision.”

**8.31** Inspectors considered it was positive that leaders in the Home Office were considering the potential diversity impacts of changes and updates to ARAP policy. It was also positive that this consideration was reflected in an updated EIA.

**8.32** The ACRS EIA was undated, did not contain details of the Senior Civil Servant that had signed off the content, and had no review date. However, the content of this document would indicate it was produced some time in 2021, which would align with the initial launch of the ACRS routes in January 2022. It was unclear whether this document had ever been subject to a review as ACRS policy had evolved.

**8.33** No EIAs were submitted by the Home Office in respect of ACRS Pathways 1 and 3. It was unclear to inspectors how the Home Office could evidence compliance with the PSED in respect of these two pathways given the lack of an EIA for them.<sup>121, 122</sup>

**8.34** Inspectors noted that some significant policy changes (as defined in the Home Office guidance quoted above) had not been subject to an EIA or EIA review. Two policies stood out as being of note.

<sup>121</sup> See annex C for an overview of the Brown Principles.

<sup>122</sup> In its factual accuracy response, the Home Office stated: “The Home Office holds an EIA on the ACRS as a whole (covering all Pathways). This was last updated in November 2022, but an oversight from officials meant it was not submitted to ICIBI inspectors.”

- 8.35** First, as detailed in chapter 5, the Home Office moved 187 Afghan nationals on the UK Resettlement Scheme (UKRS) into ACRS in May or June 2022, following a recommendation from the UNHCR.<sup>123</sup> This was referred to internally by the Home Office as ‘flipping’ the cases.
- 8.36** A senior manager with responsibility for resettlement routes told inspectors that this decision was not subject to a bespoke EIA, nor was the original ACRS EIA updated. The submission sent by the Home Office to ministers on 17 May 2022 proposing the ‘flipping’ of cases included the original ACRS EIA, believed to date from 2021.
- 8.37** Given the potential diversity impact of this decision, this change should have been subject to a bespoke Home Office EIA according to the Home Office EIA and PSED policy – or, as a minimum, a review of the original undated ACRS Pathway 2 EIA. When asked how the cases that were moved to ACRS were identified, a senior manager with responsibility for resettlement routes told inspectors that cases were moved based on their nationality, with any Afghan nationals with an active UKRS case on Home Office systems moved to ACRS.
- 8.38** Selecting cases based on nationality (race) may amount to direct discrimination. There may also be other unforeseen diversity impacts. Had a bespoke EIA been undertaken, or the existing EIA reviewed, a full consideration of the potential diversity impacts or any unforeseen impacts could have been considered and, if required, mitigated.
- 8.39** Inspectors raised these concerns with the Senior Civil Servant responsible for Afghan resettlement schemes. They stated that they would investigate this matter further if inspectors raised it as a concern but refuted that those moved from legacy resettlement schemes to ACRS had been in any way disadvantaged.
- 8.40** Inspectors concluded that in the absence of an EIA, it was difficult for the Home Office to evidence that due regard had been given to the three strands of the PSED in respect of the decision to ‘flip’ cases to ACRS. The Home Office may wish to consider conducting a retrospective EIA as a matter of urgency to identify any potential equality impacts.
- 8.41** The other major policy change that had not been subject to an EIA was the decision by the Home Office in late November 2022 to pause all Afghan resettlement applications that would otherwise qualify for permission to enter due to a lack of suitable accommodation in the UK (see chapter 6). This decision was sustained following a prime ministerial directive in December 2022 that hotels were no longer to be used to accommodate Afghan resettlement cohorts.
- 8.42** In the absence of an EIA of this policy change, it was unclear to inspectors how the potential equality impacts of that decision had been considered.
- 8.43** Inspectors would expect a major change in policy to be subject to an EIA, but it was particularly important in Afghan resettlement schemes, as it was acknowledged by senior managers that this route is subject to significant litigation.
- 8.44** In its response to the formal evidence request, the Home Office provided a ministerial submission dated 25 February 2022. In this submission, Home Office officials highlighted that the decision to pause the issuing of Afghan resettlement entry clearances led to the operation of a de facto unpublished policy.
- 8.45** Emails provided to inspectors indicated that the pause had been in operation since 24 November 2022, with the submission of 25 February 2022 indicating that an EIA would be

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123 Home Office further evidence return.

produced once ministers decided on next steps in relation to the pause, some two months after Home Office officials decided to implement it.

- 8.46** When asked for further clarity on this submission, the Home Office provided documents including an ‘EIA Snapshot Tool’. This document outlined the potential diversity impact of various options being put to ministers by the Home Office. It was an assessment of the potential equality impacts of the options available to ministers in response to the pause, rather than an assessment of the impact of the pause itself.
- 8.47** The Brown Principles set out that equality should be integrated from the beginning of a process or its initial stages and is continually considered and is not an afterthought.<sup>124</sup> The decision to pause issuing entry clearances in November 2022 had not been subject to an EIA. While inspectors considered it positive that the Home Office intended to conduct an EIA of whichever option was chosen by the minister to resolve the issue of the pause, inspectors concluded that equality considerations had not been integrated from the initial stage of the pause in November 2022.
- 8.48** Failure by the Home Office to adequately document that due regard has been given to equality and diversity considerations is unlikely to be viewed favourably in the event of a legal challenge.
- 8.49** On 7 April 2023, at which time the pause had not been made public knowledge, and in response to a query regarding whether an EIA had been completed in relation to the pause or ministerial response to the pause, the Home Office said:
- “To confirm, a full EIA has not yet been produced and signed off at this stage and is still pending.”
- 8.50** Inspectors were not satisfied that the Home Office had demonstrated compliance with the three strands of the PSED in relation to the pausing of Afghan resettlement applications. The Home Office may wish to consider conducting a retrospective EIA of this policy decision as a matter of urgency, as well as undertaking a wider review of any other policy decisions which may require an EIA.
- 8.51** Inspectors also had concerns regarding the accessibility and transparency of EIAs outside the Home Office. A search of open-source material by inspectors found that only the February 2021 EIA regarding the introduction of the ARAP scheme was available on GOV.UK.
- 8.52** In the interests of transparency, and for there to be public confidence in Afghan resettlement routes, it is important that applicants, their representatives, and stakeholders external to government can access EIAs to understand the equality considerations applied by the Home Office in the design and operation of these routes. The Home Office may wish to consider publishing EIAs on GOV.UK, where it would not damage national security or operational effectiveness to do so.

## Quality of EIAs

- 8.53** Inspectors reviewed the EIAs provided by the Home Office in respect of the current ARAP and ACRS.

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<sup>124</sup> See annex C for a summary of the Brown Principles.

**8.54** The current ARAP and ACRS P2 EIAs identified potential direct and indirect discrimination in both schemes. A summary of the protected characteristics identified by the Home Office as being impacted under these schemes is provided in Figure 13.

**Figure 13: Equality impacts identified in ARAP and ACRS Pathway 2 EIAs**

EIA	Race		Age		Sex		Marriage/CP		Maternity		Gender reassignment		Disability		Sexual orientation		Religion/belief	
	D	I	D	I	D	I	D	I	D	I	D	I	D	I	D	I	D	I
ARAP	●		●	●		●		●		●			●					●
ACRS 2	●	●		●		●				●		●		●				●
	2	1	1	2	0	2	0	1	0	2	0	1	0	2	0	0	0	2

D: potential direct discrimination  
I: potential indirect discrimination

**8.55** In all cases of indirect discrimination, there was sound rationale that the indirect discrimination was objectively justified as a proportionate means to a legitimate aim. The direct discrimination referenced in Figure 13 was found to be authorised by the exceptions provided for in the Equality Act 2010, as outlined elsewhere in this chapter.

**8.56** The ARAP EIAs submitted by the Home Office demonstrate sound consideration of both potential direct and indirect discrimination based on protected characteristics and how they can be overcome or mitigated. The Home Office was unable to identify impacts in relation to certain characteristics – notably disability and pregnancy – because this data is not recorded for immigration purposes. The EIA does commit to reviewing the situation post implementation to identify and act upon any emerging diversity issues post implementation, but no evidence of such reviews, beyond reviews of the EIA when there was a policy change, were identified by inspectors.

**8.57** Resettlement, Relocation and Reunion Services (RRRS) team members told inspectors that the co-ordination hub, whose responsibility includes the collation and dissemination of data in respect of Afghan resettlement schemes, does not currently analyse diversity data. The Home Office may wish to consider expanding the remit of this unit to monitor and analyse diversity data to provide early warning of emerging equality and diversity impacts.

**8.58** In the three ARAP EIAs, the “fostering good relations” section noted a neutral public perception of Afghan resettlement cohorts resettling in the UK. Such resettlement was deemed to have “widespread support” from the public. It was not clear whether this statement was based on objective evidence or conjecture on the part of the author.

**8.59** The EIA considering ACRS P2 was particularly comprehensive. Inspectors saw consideration of both direct and indirect discrimination in a cohort of applicants where protected characteristics were likely to have influenced eligibility for the scheme. Inspectors also noted that the Home Office had comprehensively analysed how equality of opportunity and fostering of good relations could be achieved for this cohort post arrival in the UK.

**8.60** The ACRS P2 EIA demonstrated a sound understanding of the concepts of direct and indirect discrimination, as well as the exemptions within the Equality Act 2010 permitting what would otherwise amount to unlawful discrimination. The only concerns inspectors had, with what was otherwise an example of good practice, was that the EIA did not identify the author, nor who signed off the EIA. It was also undated and had no review date. Assuming this EIA was produced prior to the launch of ACRS on 6 January 2022, the EIA was at least 14 months old

at the time of this inspection, and inspectors were unable to establish whether it had been reviewed since publication.

## Other equality considerations

- 8.61** Inspectors identified other areas of concern regarding the accessibility of some of the resettlement routes to cohorts of applicants with certain protected characteristics. From a random sample of 150 electronic case records, inspectors identified that applicants on the ACRS route with complex medical needs, or an association with someone with complex medical needs, were more difficult to accommodate in the UK. While accommodation is outside the scope of this inspection, without suitable accommodation in the UK, the Home Office was unable to issue an entry clearance to this cohort, so there was a direct impact on the application process.
- 8.62** Inspectors considered that this was likely to constitute indirect discrimination on the ground of disability, as many of the index conditions identified were likely to meet the definition of disability in the Equality Act 2010. While ACRS does not exclude those with complex medical needs, the requirement for local authorities to accept and accommodate those with complex disabilities was likely to have a disproportionate impact on those with disabilities or an association with someone with a disability.
- 8.63** Inspectors raised these concerns with Home Office managers responsible for resettlement operations. One manager, responsible for one of the ACRS pathways, denied that this would amount to indirect discrimination, stating:
- “I don’t think it is – it is what accommodation the local authority has available. We will look to match all families with the accommodation available. It is just what is suitable from what they have available at the moment – obviously other accommodation will be available for those with disabilities.”
- 8.64** However, a manager for a different ACRS pathway took a different view, acknowledging the potential for discrimination, but questioning where the responsibility for that discrimination lay:
- “I don’t know who would bear the responsibility for the indirect discrimination – the Home Office or the local authorities. There are local authorities that are happy to step up more than others. It was the same for Syria and other resettlement schemes. We’ve had to say we can’t take the cases and the UNHCR may have to refer them to another resettlement country.”
- 8.65** The EIA for ACRS Pathway 2 states:
- “We will be limiting the number of ‘complex’ cases, such as those with high mobility needs, due to lack of availability of appropriate housing and support to meet the needs of these individuals...
- We must ensure refugees receive adequate support and housing to meet their needs and enable them to successfully rebuild their lives in the UK. Limiting complex cases to a maximum of 5% enables this to be achieved.”
- 8.66** However, in the response to the further evidence request, the Home Office provided a ministerial submission regarding ACRS Pathway 2, which provided additional detail on this topic:

“We propose capping complex cases and referrals for large families at a maximum of 5% of new referrals under Pathway 2 of the ACRS. Previously, under the UKRS, this limit was set to 20%, however, due to the lack of appropriate accommodation, we have been unable to accommodate many of these cases, and they are still awaiting resettlement in a third country.”

**8.67** Inspectors were unable to find any detailed information regarding the constituents and rationale for this 5% cap on complex cases in open-source documents on GOV.UK. Inspectors concluded that the lack of information in the public domain would make it difficult for applicants to understand how their individual circumstances may positively or adversely impact their potential for relocation.

**8.68** Inspectors had concerns that the imposition of an arbitrary cap of 5% of ‘complex’ cases, the broad definition of which was vague and may include other factors beyond protected characteristics, may substantially disadvantage some of the most vulnerable groups seeking resettlement, such as families with children with disabilities. The potential indirect discrimination based on disability arising from the 5% cap is justified by the Home Office in the EIA as a proportionate means to a legitimate aim:

“This is justified as it is aligned to the overall aim of UK resettlement policy – to provide a durable solution for some of the most at-risk people seeking safety. A durable solution is defined as ‘any means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to live normal lives’. We must ensure refugees receive adequate support and housing to meet their needs and enable them to successfully rebuild their lives in the UK. Limiting complex cases to a maximum of 5% enables this to be achieved. This approach will remain under review as capacity and availability of appropriate housing evolves.”

**8.69** Given that the EIA was undated, with no review date, it is unclear whether any review has been undertaken by the Home Office.

**8.70** The requirement for biometrics places further boundaries on women’s and girls’ access to the scheme. As has been widely reported, women in Afghanistan are banned from leaving their homes unaccompanied. On 27 March 2022, Reuters reported that the Taliban had banned women in Afghanistan from boarding domestic or international flights unless they were accompanied by a male co-traveller.<sup>125</sup> On 9 May 2022, the UN reported that the Taliban had instructed that women should only leave their home “in cases of necessity”.<sup>126</sup>

**8.71** British Embassy operations in Afghanistan are currently suspended.<sup>127</sup> It is necessary for any applicants deemed eligible for ARAP or ACRS to travel to a third country to provide biometrics. The restrictions on both internal and international movement of females within Afghanistan and across the external Afghanistan border are likely to severely inhibit the ability of Afghan females without a male co-traveller to access the Home Office’s Afghan resettlement schemes.

**8.72** In the EIA of the ARAP scheme in June 2022, the Home Office stated:

“...women travelling unaccompanied through Afghanistan may find it difficult or dangerous owing to cultural norms. In such instances, we would seek practical options around how

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125 <https://www.reuters.com/world/asia-pacific/afghanistans-taliban-ban-women-flying-without-male-chaperone-sources-2022-03-27/>

126 <https://www.unwomen.org/en/news-stories/statement/2022/05/statement-on-afghanistan-by-ms-sima-bahous-un-women-executive-director>

127 <https://www.gov.uk/world/organisations/british-embassy-kabul>



relocation could take place in a way that is acceptable in order to minimise the extent to which they are disadvantaged.”

- 8.73** This could be mitigated by a waiver of the biometric requirements for Afghan resettlement, as discussed in chapter 5.
- 8.74** Inspectors requested the Home Office to provide details of the process for applicants applying to Afghan resettlement schemes to request a biometric waiver, as well as details of the number of waivers requested, and the outcome of the waiver requests.
- 8.75** The Home Office responded:
- “Nil return as there is no formal process available for an applicant to request a biometric waiver under the Afghan resettlement schemes.”
- 8.76** In the absence of a mechanism to request a biometric waiver, inspectors were not satisfied that the Home Office had sought to implement a practical option to minimise the disadvantage towards women and girls in the application process.

## Conclusions

- 8.77** Open-source material and statements made by Home Office officials during this inspection highlighted significant litigation in relation to Afghan resettlement schemes. To avoid costly and time-consuming litigation, it is important that the Home Office ensures that policies and processes are compatible with equality and other legislation.
- 8.78** Both direct and indirect discrimination were identified in the operation of Afghan resettlement schemes, but this discrimination was likely to be permitted by the Equality Act 2010.
- 8.79** There were inconsistencies in the use of a ministerial authorisation in direct discrimination on the ground of race (nationality) in ACRS Pathways 2 and 3. Inspectors were not persuaded that a ministerial authorisation was required. Notwithstanding this, inspectors found it inconsistent that a ministerial authorisation was used for ACRS Pathways 2 and 3, but not for ACRS Pathway 1.
- 8.80** Where the Home Office had undertaken EIAs, the quality of them was good, with broad consideration of a range of diversity factors, and evidence of compliance with the public sector equality duty. Inspectors found evidence of reviews and updates of EIAs being undertaken in relation to the ARAP scheme. It was unclear if the ACRS EIA had been subject to a review as it was undated and had no review date. With limited exceptions, the Home Office did not publish Afghan resettlement EIAs on GOV.UK.
- 8.81** Inspectors noted a lack of EIAs for key policy changes with potential diversity impacts, such as the pausing of processing entry clearance applications at the point of issue in November 2022. The Home Office may experience difficulties in demonstrating compliance with the public sector equality duty in relation to these policy decisions.
- 8.82** Inspectors found that groups with vulnerabilities that engage with protected characteristics may experience greater difficulty accessing Afghan resettlement schemes. For example, women and girls may find it more difficult to leave Afghanistan to provide biometrics to progress their entry clearance application.

# 9. Inspection findings: communication, engagement, and transparency

## Stakeholder engagement

### Applicants

- 9.1** The ICIBI’s ‘expectations’ of asylum, immigration, nationality, and customs functions state that “Each immigration, asylum, nationality or customs function has a Home Office (Borders, Immigration and Citizenship System) ‘owner’. The ‘owner’ is accountable for stakeholder engagement (including customers, applicants, claimants and their representatives).”<sup>128</sup>
- 9.2** Inspectors considered the communication between the Home Office and applicants to the Afghan resettlement schemes by examining the quality, frequency, and content of communication channels to determine the extent to which they facilitated effective engagement.
- 9.3** Inspectors found that there was very limited engagement between Home Office staff and applicants, and the level of engagement relied heavily on whether applicants were applying from within the UK or overseas.

### Communication with applicants already in the UK

- 9.4** Applicants evacuated during Operation PITTING (OP) in August 2021, who did not hold prior entry clearance, were given six months, limited permission to enter. This cohort subsequently had to apply for indefinite permission to stay (IPS) from within the UK before the expiry of the six months.
- 9.5** Inspectors found that communication with applicants was hindered by the Home Office’s poor data collection. Home Office staff could not contact many applicants due to missing or incorrect contact details.<sup>129</sup> Many applicants who arrived during OP chose to live with family or in private accommodation, and as the Home Office did not collect these details adequately, the Home Office was unable to initiate the IPS application process.
- 9.6** Inspectors noted that following an initial grant of limited leave to enter, the onus would ordinarily be on the applicant to contact the Home Office to regularise their stay. However, for the OP cohort, the Home Office contacted these individuals to fully regularise their stay in the UK, despite no legal requirement to do so.
- 9.7** Inspectors also found some positive evidence of engagement. For example, a resettled ARAP applicant told inspectors of a positive interaction with Home Office staff when their child was born in the UK the previous year and they were unsure of the process to regularise their child’s immigration status. The family had contact details for a caseworker within the Home Office and

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<sup>128</sup> <https://www.gov.uk/government/publications/icibi-expectations-for-inspection>

<sup>129</sup> In its factual accuracy response, the Home Office stated that approximately 3,000 out of circa 15,000 applicants chose to live with family or in private accommodation.

so contacted them directly. The applicant advised that Home Office staff were “very helpful”, and they resolved the child’s immigration status within a few weeks. Without direct contact details for a caseworker within the Home Office, applicants may struggle to obtain a clear response on immigration issues that arise as a result of their resettlement.

## Communication with applicants overseas

- 9.8** Inspectors found that the Home Office’s communication with applicants overseas was extremely limited. Home Office staff within the JACU out-of-country (OOC) team had no direct contact with applicants, as eligibility for both ARAP and ACRS is decided by the Ministry of Defence (MOD) and the Foreign, Commonwealth and Development Office (FCDO), which are the principal points of contact for applicants.
- 9.9** JACU OOC team staff told inspectors that they were “not dealing directly with the applicant” and that they often had “no way of contacting the applicant” as the contact details supplied on the entry clearance application are for the MOD, the FCDO, or British Embassy staff in third countries.
- 9.10** For ACRS Pathway 2, all communication from the Home Office goes via the United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM), with no direct contact between the applicants and Home Office staff.
- 9.11** Stakeholders told inspectors that communication between the Home Office and applicants had been an ongoing issue. There was a lack of clarity for applicants on which pathway to apply under and there was uncertainty around who applicants could contact to check on the progress of their application.
- 9.12** Any communication sent to overseas applicants by the Home Office was sent via email. Stakeholders told inspectors that the communications are “very generic” and the information within the emails often does not match information published on GOV.UK. One representative body told inspectors that emails from the Home Office to applicants in Afghanistan or a third country are “sent to multiple email addresses ... this process should be conducted without revealing email addresses and the correspondence shouldn’t be a trigger for trauma.”
- 9.13** Inspectors found that holding responses were sent in response to applicants, and the JACU OOC team did not feel it was necessary to contact applicants directly regarding the progress of their entry clearance application, as applicants are “not paying for the service, so there is no pressure to resolve the case”.
- 9.14** It was widely acknowledged that applicants are at arm’s length from the Home Office. A senior manager told inspectors that other government departments had their own relationships with applicants because they determine eligibility. The Home Office had discussed communication with the MOD and the consensus was that it would confuse applicants if they tried to differentiate the communication between the two government departments. The senior manager told inspectors: “customers just see ‘government’ and that is their door ... it would be confusing to them if they were talking to two different government departments.”
- 9.15** JACU OOC staff told inspectors that Home Office communications with applicants in Afghanistan or a third country could have posed a risk to the applicants’ safety due to applicants having communications from the UK government on their devices.<sup>130</sup> Their

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130 The Home Office, in its factual accuracy response, stated: “JACU OOC staff were advised by MOD colleagues not to communicate directly with applicants still in Afghanistan.”

contention was that it was more appropriate for such communication to come from the MOD rather than a “faceless communication from the Home Office”.

- 9.16** A senior manager described feeling a “genuine responsibility” for the applicants but advised that they relied heavily on the international partners to help facilitate the conversations.
- 9.17** Inspectors found a culture at all levels in the Afghan resettlement teams that the applicants were not the Home Office’s applicants to manage, and therefore engagement was a matter for the MOD, the FCDO, the IOM, and the UNHCR.
- 9.18** While eligibility is not a matter for the Home Office, the processing of entry clearance applications certainly falls within the remit of the Home Office. One of the key ‘missions’ of UK Visas and Immigration is to deliver “world class customer service”. Inspectors had some difficulty reconciling a culture of delegating engagement with applicants to third parties with an aspiration to deliver world class customer service.

## Stakeholders

- 9.19** Inspectors found that there was limited engagement between the Home Office and external stakeholders in relation to the Afghan resettlement schemes, beyond other government departments, the IOM, with whom there is a contractual agreement, and the UNHCR.
- 9.20** Non-government organisations (NGOs) and representative groups of Afghan nationals reported there was very little communication provided around the Afghan resettlement schemes from their inception. One stakeholder described it as being “the most stressful thing I’ve ever had to engage with” due to the lack of clarity around which government department was dealing with each stage of the process.
- 9.21** There was minimal, if any, communication between the Home Office and non-government stakeholders about what the schemes entailed. Stakeholders told inspectors that applicants struggled to comprehend the schemes due to the lack of Home Office communication. While there were “high hopes” when the schemes were announced, at launch, the eligibility scope was “really narrow”. This left the voluntary sector under “intense pressure” to try and assist “really desperate people”.
- 9.22** One stakeholder described the Home Office’s engagement as, “if it was on a scale of 0–10, I would put it at –1.” Stakeholders advised that the Home Office often did not reply to correspondence and likened communication sent to the Home Office as being sent “into a black hole”. Stakeholders also spoke of a lack of trust in the Home Office from applicants due to the lack of communication around the schemes.
- 9.23** One stakeholder told inspectors that they did not work directly with the Home Office as the Home Office had “no willingness” to work collaboratively. It was not receptive to listening to lived experience to improve the schemes. Another stakeholder told inspectors that they wrote to the Home Office in September 2022 regarding their concerns around the Afghan resettlement schemes and still had not received a response as at February 2023.
- 9.24** In response to the ICIBI’s ‘call for evidence’, a stakeholder raised concerns that despite contacting the Home Office on numerous occasions regarding an urgent situation for those left behind, they were passed between multiple government departments and still had no clear answer for the family left behind in Afghanistan. The stakeholder advised that they had seen this situation repeated across numerous similar cases.

- 9.25** Inspectors attempted to identify what, if any, engagement strategy was in place between the Home Office and NGO and representative stakeholders. In the evidence request for this inspection, inspectors requested the Home Office to provide details of the feedback sought from applicants to the Afghan resettlement schemes to continuously improve the process.
- 9.26** In its response, the Home Office highlighted the engagement undertaken by Home Office Liaison Officers to act as a conduit between those already resettled in the UK and the Home Office. However, the Home Office stated that in respect to caseworking, “There is no feedback sought from a caseworking perspective.”
- 9.27** Resettled individuals told inspectors that improving engagement between the Home Office and other key stakeholders would enhance the support and advice to applicants through the resettlement process.

### Other government departments (OGDs)

- 9.28** Staff at all grades across the different teams in the Home Office described good working relationships between the Home Office and the MOD, the FCDO, the IOM, and the UNHCR. Home Office staff reported having a single point of contact in each organisation, whether that be a team or individual. Staff within Home Office Afghan resettlement teams felt enquiries to OGDs were generally dealt with in a timely manner.

### Ministry of Defence (MOD) and Foreign, Commonwealth and Development Office (FCDO)

- 9.29** In its response to the ICIBI evidence request, the Home Office stated:
- “The Home Office has worked collaboratively with other government departments, namely DLUHC, MOD and FCDO to deliver the ACRS, including through the establishment of the Joint Afghan Casework Unit...
- Additionally, HMG continues to work with local authorities, UNHCR, IOM and other key partner agencies to support those in Afghanistan and the region for resettlement in the UK.”
- 9.30** Job descriptions for all caseworking staff within the JACU OOC team state “[officers will] ... work pro-actively with MOD and FCDO stakeholders to ensure queries are dealt with and applicants are available for manifesting on relocation flights.” The JACU OOC team members reported having weekly meetings with the MOD and the FCDO where they would discuss complex cases and stated they “generally have good relationships” with the departments. Home Office and British Embassy staff frequently exchanged communication in relation to any enquiries they may have had around progress with entry clearance applications.
- 9.31** A member of the Home Office senior leadership team for Afghan resettlement schemes told inspectors that the relationship with the MOD and the FCDO is “one of the best cross departmental relationships I’ve had in my career.”
- 9.32** MOD and FCDO staff also reported having a positive relationship with the Home Office. An FCDO representative told inspectors that although there were previous concerns with the turnaround time for security checks undertaken by the Home Office, they were now “working well”, engagement was “excellent”, “information sharing is good, and it feels like a collaborative enterprise.”

- 9.33** An MOD representative described engagement with the Home Office as “strong and one of the best examples of government collaboration.”
- 9.34** Inspectors found that there were some aspects of communication that would benefit from improvement. During interviews with both the MOD and the FCDO, it was reported that there was a lack of expertise sharing by the Home Office, principally around casework, document fraud, and policy expertise. Both the MOD and the FCDO stated that the Home Office had the capability in these areas, and greater sharing of that expertise would have assisted in setting up their own capability.<sup>131</sup>
- 9.35** For example, MOD representatives reported that their biggest challenge was establishing an immigration casework function within a department that did not traditionally perform such work: “...if MOD had received someone from the Home Office to help set up the casework, there would have been less [sic] difficulties at the start.” An MOD representative also advised that “quite a lot of policy advice takes a while to get through from the Home Office ... however, this is not the fault of the [Afghan resettlement] team;” it was instead attributable to the policy team.<sup>132</sup>
- 9.36** FCDO representatives informed inspectors that, at times, the Home Office’s policy responses were inadequate to address their specific concerns. For example, the FCDO initially anticipated that the Home Office would be responsible for decisions regarding additional family members, on eligibility grounds, after the primary applicant’s application was approved. However, this was not the case, and the Home Office advised this would fall within the FCDO’s remit. Therefore, it was the FCDO’s responsibility to make the decision on the eligibility of additional family members.
- 9.37** A Home Office senior manager told inspectors that “there are lots of open and difficult conversations we have with MOD and FCDO, including around Home Office policies that they disagree with.” They also described the relationships as “pretty good”.
- 9.38** Inspectors concluded that the establishment of effective communication channels between the Home Office, the MOD, and the FCDO was of the utmost importance. Inspectors found that although there were some aspects of communication that could be improved, the overall interaction between the Home Office, the MOD, and the FCDO was positive.

## **United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM)**

- 9.39** Home Office staff working on ACRS Pathway 2 (P2) applications told inspectors that the team maintained a strong and effective working relationship with the UNHCR, as evidenced by bi-monthly case catchups. The job description for staff members in the Home Office UNHCR team emphasised the importance of building and maintaining strong relationships with stakeholders, including the UNHCR.

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131 The Home Office, in its factual accuracy response, stated: “...the OOC team has fed into training sessions for both FCDO and MoD staff. They have also frequently discussed aspects of the Immigration rules [sic] and how they could impact on cases being considered for eligibility by both MoD and FCDO. To further evidence this cooperation the team are about to feed into another round of MoD caseworker training, once this has been arranged by the MoD.”

132 The Home Office, in its factual accuracy response, stated: “...when JACU was originally being set up it was originally envisaged that both MoD and FCDO staff would be seconded to the unit and probably vice versa; this did not happen.”

- 9.40** Managers in the Afghan resettlement teams also actively facilitated knowledge-sharing between different departments by arranging crossover training sessions and providing regular communication updates, both in person and via video calls for overseas posts.
- 9.41** UNHCR representatives told inspectors that they regularly liaised on policy and operations with the Home Office UNHCR team. The UNHCR also provided training to Home Office staff on immigration protection and resettlement.
- 9.42** UNHCR representatives told inspectors that their relationship with the Home Office remains “positive and constructive”, particularly with regards to day-to-day casework. While there were some initial IT issues that prevented the Home Office from accessing shared files from the UNHCR, these have since been resolved.
- 9.43** Home Office staff told inspectors that a contract had been established with the IOM to manage the overseas application process for those referred to ACRS P2. This included the provision of accommodation, food, and medical assessments, in very exceptional circumstances, for applicants who had been deemed eligible by the UNHCR but were awaiting confirmation of suitability by the Home Office. The IOM was also responsible for covering the cost of the applicants’ flights and one-way travel upon entry clearance approval to travel to the UK (though this is ultimately funded by the UK government via a contractual arrangement with the IOM). The IOM served as the main point of contact for many applicants while they awaited approval of their entry clearance.
- 9.44** The Home Office described the IOM as “our liaison on the ground”. Home Office staff characterised the relationship with the IOM as “working well” and “honest and transparent”.
- 9.45** Inspectors found that the relationship between the Home Office, UNHCR, and IOM staff at an operational level appeared positive and collaborative. This relationship facilitated open communication, which allowed for a two-way exchange of information to assist in the progression of casework.

## Internal communication

### Joint Afghan Casework Unit (JACU)

- 9.46** While inspectors observed good communication within teams, there was a lack of communication between different Home Office Afghan resettlement teams, leading to siloed working. JACU OOC staff noted that the team functioned as “its own separate entity”, with no routine engagement between the JACU OOC and JACU IC teams unless a specific case necessitated it.<sup>133</sup>
- 9.47** In May 2022, Resettlement, Relocation and Reunion Services (RRRS) developed a transformation programme to design and deliver a future operating model for future resettlement schemes based on lessons learned from previous schemes and post OP, bringing together teams, and ensuring that their staff were trained to perform a range of functions to provide flexibility and efficiency. However, this transformation programme was paused in early 2023 due to the operational pressures around Afghan resettlement schemes.
- 9.48** Inspectors concluded that there would be benefits to improved engagement and communication between the different Home Office caseworking teams. This would continue

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<sup>133</sup> In its factual accuracy response, the Home Office stated: “...there were regular meetings between the G6s and G7s from both the OOC and IC Teams. The teams have now merged into one team.”

to build a more cohesive structure, improve learning opportunities, and share best practice. The RRRS transformation programme, with its focus on consistent and shared learning, had the potential to strengthen staff knowledge and improve overall consistency across the department. The Home Office may wish to consider restarting this aspirational transformation programme as soon as possible.

## Transparency

### Pause of issuing entry clearances

- 9.49** In November 2022, the Home Office paused the issuing of entry clearances in Afghan resettlement routes, as outlined in chapter 6.
- 9.50** Home Office staff explained that although the pause had been communicated to British Embassy staff within third countries, they did not know whether it had been passed on to the applicants awaiting their entry clearance decision. A senior manager explained that the MOD was aware of the pause on issuing entry clearances and the current issue with sourcing accommodation, but there was “no easy solution” to address the problem.
- 9.51** On 31 March 2023, the Chief Inspector wrote to the Director General of UK Visas and Immigration and the Second Permanent Secretary at the Home Office requesting clarity on when applicants will be made aware of the pause. On 19 April 2023, the Second Permanent Secretary provided the following response:

“We will provide more detail in due course about our plans for supporting eligible people currently overseas, into suitable accommodation.”<sup>134</sup>

### UKRS to ACRS ‘flipping’ policy

- 9.52** As set out in chapter 5, acting on advice from the UNHCR, the Home Office moved 44 cases, comprising 187 individuals on the UK Resettlement Scheme (UKRS), onto the Afghan Citizens Resettlement Scheme (ACRS). This is known as ‘flipping’ cases.
- 9.53** Applicants that were flipped from UKRS to ACRS were not made aware of the change of scheme, nor was their consent sought by the Home Office. The Home Office explained that to do so would cause unnecessary confusion given that ACRS offers the same rights and support as UKRS.<sup>135</sup>
- 9.54** In relation to the lack of communication with applicants, a senior manager told inspectors: “In my experience, customers are not interested in that level of bureaucracy. They are just interested in what they are entitled to, what their children are entitled to, rather than the internal workings of governments, the different routes, I don’t think there is a high level of interest in those elements.”
- 9.55** In response to the ICIBI evidence request, the Home Office commented:

“We are satisfied that the decision to ‘flip’ cases does not have a materially negative impact on refugees resettled.... Our view was that explaining to the refugees that their cases had

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134 Letter from Simon Ridley to David Neal, 19 April 2023.

135 The Home Office, in its factual accuracy response, stated: “at the start of UKRS the Home Office moved all remaining refugees on existing schemes (VPRS, VCRS, Gateway) to UKRS without informing them or seeking their consent.”



been ‘flipped’ would have been likely to have caused them unnecessary confusion given that ACRS offers the same rights and support as UKRS.”

- 9.56** Inspectors questioned the lack of transparency around the policy change. It should be noted that while the amount of financial support is the same for ACRS and UKRS, the period of support for ACRS is three years, and five years for UKRS. The financial support goes directly to the local authorities. In addition, the number of applicants for ACRS is subject to a total cap.
- 9.57** It is open to any applicant to seek independent legal advice on their immigration status or application. To seek informed immigration advice, an applicant must know which resettlement route they are on.<sup>136</sup>
- 9.58** Inspectors considered that it was inappropriate for the Home Office to withhold this information from applicants, as it may hinder their ability to seek informed independent legal advice. In summary, this was information that applicants had a right to know, and which should have been communicated to them in the interests of openness and transparency.

## Conclusion

- 9.59** The findings presented in this section highlight several concerns regarding the transparency and communication practices of the Home Office in relation to Afghan resettlement schemes. Inspectors identified a lack of information available to the public in relation to the criteria for various aspects of the schemes, such as ACRS Pathway 2 and the biometric waiver policy.
- 9.60** The Afghan resettlement schemes would benefit from improving the clarity and accessibility of guidance documents and ensuring that staff are properly trained and supported to communicate with stakeholders. By doing so, the Home Office can help to build trust and confidence in its processes around the schemes and ensure applicants are able to access the support and services they need.

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136 The Home Office, in its factual accuracy response, stated: “All decisions on whether to refer a refugee to the UK for resettlement are made solely by UNHCR. Refugees have no immigration status until suitable UK accommodation has been found and at that point they are granted a visa to enter the UK on the date of their flight to the UK. After consideration by the Casework team, the HO ‘acceptance’ letter goes to UNHCR to confirm that the Home Office will accept the case that UNHCR has submitted for consideration subject to suitable accommodation being found. The Home Office do not advise the refugees directly.”

# 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 her behalf. The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions and 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 paragraph 17 of Schedule 3 to the Equality Act 2010 (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.
- In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within 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 it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

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

## Annex 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)

# Annex C: A summary of the application of the Equality Act 2010 in immigration functions

The principal piece of equality legislation in Great Britain is the Equality Act 2010<sup>137</sup> (EA2010). With limited exceptions, the territorial scope of this act applies to England, Scotland and Wales. Separate equality legislation applies to Northern Ireland, although both pieces of legislation mirror each other.

Chapter 1 of the EA2010<sup>138</sup> defines nine protected characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Race is defined by s9(1) of the EA2010 as colour, nationality, and ethnic or national origin.<sup>139</sup>

S29 of the EA2010<sup>140</sup> makes it unlawful for a service provider (including government departments such as the Home Office) providing a service to the public (such as assessing an immigration application) to discriminate, harass, or victimise a person.

The EA2010 also makes a distinction between direct discrimination and indirect discrimination.

Direct discrimination is less favourable treatment because a person has a protected characteristic; is perceived to have a protected characteristic; or is associated with a person with a protected characteristic.

Indirect discrimination is when a policy criterion or practice applied to all, places a group sharing a protected characteristic at a disadvantage.

While direct discrimination is almost always unlawful (subject to certain exemptions), indirect discrimination can be justified as a proportionate means to achieving a legitimate aim. It should be noted that direct discrimination on the ground of age can be lawful if objectively justified,<sup>141</sup> or the less favourable treatment arises because the person is under the age of 18.<sup>142</sup>

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137 <https://www.legislation.gov.uk/ukpga/2010/15/contents>

138 <https://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/1>

139 <https://www.legislation.gov.uk/ukpga/2010/15/section/9>

140 <https://www.legislation.gov.uk/ukpga/2010/15/section/29>

141 <https://www.legislation.gov.uk/ukpga/2010/15/section/13>

142 <https://www.legislation.gov.uk/ukpga/2010/15/section/28>

Schedule 3 part 4 of the EA2010<sup>143</sup> provides exemptions from the duty for a public body not to discriminate based on protected characteristics. These include an exemption from the requirements from s29 (prohibition of discrimination, harassment, and victimisation) on the grounds of age, race (nationality, or ethnic or national origin only) in relation to exercise of functions under the various Immigration Acts or Immigration Rules. Exemptions apply to discrimination on the grounds of disability, religion, and belief in respect of certain immigration decisions made in accordance with the Immigration Rules.

A minister of the Crown may issue a ministerial authorisation (MA). An MA authorises direct discrimination on the grounds of age<sup>144</sup> or race<sup>145</sup> (nationality or national/ethnic origin). Where an MA is in force, Home Office officials may lawfully directly discriminate based on the relevant protected characteristic.

## Public sector equality duty

S149 of the EA2010 requires public authorities to comply with the public sector equality duty (PSED).<sup>146</sup> A list of public authorities within the scope of the PSED is included in Schedule 19 of the EA2010 and includes the Home Office.<sup>147</sup> The PSED requires public authorities to have due regard to:

- eliminate discrimination, harassment, or other conduct prohibited by the EA2010
- advancing equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a relevant protected characteristic and those who do not

Schedule 18 s2 of the EA2010<sup>148</sup> exempts immigration and nationality functions from the requirement to have due regard to advance equality of opportunity where the relevant protected characteristic is age or race (which is defined in this context as nationality or ethnic or national origin).

The requirements of the PSED require public authorities to demonstrate that they have given matters in scope the due consideration. There is no requirement for public authorities to demonstrate a tangible outcome.

Case law has established the six 'Brown Principles',<sup>149</sup> which courts may use to assess whether or not a public authority has had 'due regard' for the three elements of the PSED.

The Brown Principles are:

- **Knowledge** – those making decisions are informed regarding their duties and this is brought to their attention at appropriate times
- **Timeliness** – equality is integrated from the beginning of a process or its initial stages and is continually considered (it is not an afterthought)
- **Real consideration** – rigorous and documented decision making has taken place. An appropriate audit trail is available

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143 <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3/part/4>

144 <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3/paragraph/15A>

145 <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3/paragraph/17>

146 <https://www.legislation.gov.uk/ukpga/2010/15/section/149>

147 <https://www.legislation.gov.uk/ukpga/2010/15/schedule/19>

148 <https://www.legislation.gov.uk/ukpga/2010/15/schedule/18/paragraph/2>

149 <https://www.bailii.org/ew/cases/EWHC/Admin/2008/3158.html>

- **Sufficient information** – for those making decisions, there is enough information to be fully informed and it is brought to their attention
- **Responsibility** – it is not possible to delegate this responsibility. The Home Office and contractors delivering a service are jointly and severally liable to comply with the PSED
- **Review and record keeping** – there are adequate assurance and review steps, and a record has been kept of the decision-making process (for example, an equality impact assessment has been completed)

Guidance on the application of the provisions of the EA2010 in Home Office policy is contained in the Home Office's discrimination and differentiation policy, which is a document internal to the Home Office.

The Home Office also publishes internal guidance on the PSED and equality impact assessments.



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