

Reforming the Afghanistan Resettlement Schemes: the way forward for ARAP and ACRS

A Report by JUSTICE

Chair of the Committee
Sonali Naik KC



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The views expressed in this report are those of the Working Group members alone, and do not reflect the views of the organisations or institutions to which they belong.

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FOREWORD

I have been a member of the JUSTICE Council for many years, and the work they have undertaken has always been important and of high quality. I was delighted to have been asked to Chair this Working Group from my public law and immigration perspective, and my specific practice interest in Afghanistan over a number of years. I also recognised that the Afghan Resettlement Schemes were relatively novel, certainly in recent years, before the war in Ukraine, and that against the background of the earlier Intimidation Policy and the Ex-Gratia scheme during the UK mission, the ambition of these Schemes deserves to fulfil the promise of being able to provide a safe route to the UK for those eligible.

Where we are now, two years on since the Taliban takeover of Kabul on 15 August 2021, also deserves proper acknowledgment, for the achievements to date in relocating over 24,500 persons and their families from Afghanistan to the UK. However, we must also recognise the deficiencies of that operation, and in terms of timing and pace -- in many cases the slow pace -- of progress of those who were eventually relocated. Operation Pitting was an emergency response to an emergency situation, and was undoubtedly the right thing to do, but the crisis goes on.

Even when faced with some 141,000 applicants under the ARAP scheme-launched in April 2021 and the rapidly increased and desperate focus of many- there were insufficient human resources allocated to processing the applications from the outset. The learning must be here as to what could and should have been done differently, or perhaps better said, earlier. There was a lack of preparation for the consequences of the withdrawal of the North Atlantic Treaty Organisation (“NATO”) forces, and a failure to understand what the likely consequences were, and how soon they might ensue. It has been said “you could have seen it coming from space”.¹ Even then, once it was clear, early on, how many applicants were to apply through the ARAP scheme (for which rightly there is no upper numbers limit), a fair and reasonable response would have been to allocate more resources to the processing of those applications to identify those who met the criteria clearly, and where discretion could be exercised. That is necessarily an evaluative process, but applicants who are to be considered for

¹ Unnamed former FCDO official.

relocation need recognition and speed given the risks they face, which is after all the whole purpose of that scheme. Importantly, applicants who are not likely to be relocated for the same reasons need to be able to identify the breadth of the criteria, and consistency of their application, with the criteria, in order to understand whether, and if so, why they will not qualify for relocation under ARAP or in future under ACRS-when that is fully operational-and to have agency in the decisions they seek to make to try and ensure their own safety. This is why reasons for administrative decisions are so important both for those who make them and in respect of whom they are made.

Most of all, in fairness to those who seek relocation, there needs to be recognition that the UK's policy objectives in Afghanistan over 20 years could not have been met without certain Afghan nationals being willing to work with the UK in building a viable Afghan state. The risks to those who assisted, and who were visible, and which as a consequence meant they remain vulnerable on account of the impact of their work in counter terrorism, counter narcotics, counter insurgency, and the broader stabilisation of governance and development objectives, endures. For example, those dangerous and exposed roles include those who worked in supporting the Afghan state through upholding the Rule of Law as part of the justice and human rights pathway, without whom it would not have been possible for the UK to undertake this work. Given the Taliban statements on the position of women, women who undertook such roles in support of the UK mission are necessarily and especially vulnerable and the risk to those cannot be underestimated. There is an obvious danger that the UK's delays in processing applications become a self-fulfilling prophecy, and that government urgency drains away as survival is mistakenly equated with diminished risk, and as other foreign policy priorities capture attention and headlines. That cannot be allowed to happen.

We hope that the recommendations made in this report are carefully considered and adopted by the Government and those responsible for the operation and implementation of the schemes with whom we have consulted and for which cooperation we are grateful.

Sonali Naik

Sonali Naik KC

EXECUTIVE SUMMARY

- I. JUSTICE began the Afghan Resettlement Scheme Working Group, to assess key operational issues within ARAP (“**Afghan Relocation and Assistance Policy**”) and ACRS (“**Afghan Citizens Relocation Scheme**”). The Working Group identified a number of areas for improvement within both schemes and made 24 recommendations under four key themes: Eligibility and suitability; communication; review; and policy.

Eligibility and suitability

- II. Under both ARAP and the ACRS, the Working Group identified significant delays, a lack of clarity, and a lack of transparency in decision-making, and relocation – all of which have been detrimental to the lives and wellbeing of Afghans applying, or referred to, the schemes. Two years after Operation Pitting, Afghans who supported UK objectives, and continue to live under the Taliban regime, or in third party States, face continued threats to their lives. Therefore, failure to quickly process an individual’s initial application, to provide consistent, bespoke updates on the progress of applications, or to recognise, and adapt to the difficulties and dangers encountered by Afghans seeking to obtain documentary evidence, can result in extreme destabilisation, and violent reprisals. It follows that Afghans applying to UK resettlement schemes must be able to plan their lives and those of their families, and it is therefore essential they are provided certainty as to whether they are eligible and suitable, have the financial means of challenging any negative decisions and that, once deemed eligible and suitable, they are safely resettled to the UK as a matter of urgency.
- III. In addition, the schemes have failed to provide for specific groups whom, over a twenty-year period, assisted the UK objective of building a viable Afghan state, such as aid workers funded by the UK’s development assistance programme, or those who are highly vulnerable, such as women or minorities. We propose that the material criteria under ARAP be more clearly set out, in a centralised and accessible policy document, in addition to further guidance on acceptable evidence.

Communication

- IV. Both ARAP and the ACRS are administered across several government departments, and it follows therefore that cross-departmental communication is essential. We understand that the three primary Government departments in the context of the Afghan Resettlement Schemes (ARAP and the ACRS) the Ministry of Defence (“**MoD**”), Home Office and Foreign, Commonwealth and Development Office (“**FCDO**”) are in frequent communication, including weekly high-level meetings. We understand that the Government therefore already considers the administration of the scheme to be ‘joined-up’. However, there nevertheless remains inconsistent decision-making, and discrepancies between determinations made at eligibility and suitability stages. Therefore, greater inter-departmental work is needed, to reduce as far as possible disjointed decision-making and delays. The Government must also recognise the immense distress caused to applicants, awaiting decisions, unable to contact decision-makers, awaiting significant periods of time before receiving eligibility, and subsequent suitability determinations by the Home Office. Whilst we recognise that in some instances there are direct access points (for example the MoD/FCDO processing centre in Pakistan’s capital Islamabad²), this alone is insufficient: we recommend a direct means of contacting assigned caseworkers. In addition, we consider it absolutely essential and have made recommendations that all departments communicate guidance updates via government websites highlighting where changes have occurred and publish specific data on admissions and rejections.
- V. As with all administrative systems, the right to have a decision reviewed, and to appeal thereafter, forms part of the Rule of Law.³ We note that the Defence Afghan Relocation and Resettlement Team provides an internal system of review for applicants at the eligibility stage of ARAP. However, there is a considerable lack of guidance and transparency surrounding this review process. We recommend the publication of the full review procedure, including the constituent members and roles of the review panel, and the provision of detailed reasons for refusal. In addition, we consider that a further independent

² Meeting with the Home Office.

³ Council of Europe, European Commission for Democracy Through Law (Venice Commission), Rule of Law Checklist, see ‘Benchmarks’ pp 17-56.

right of appeal should be made available if applicants are still not satisfied with the reason(s) for their refusal. We also recommend that the Home Office provide a review mechanism for negative suitability decisions, wherein applicants under ARAP are ‘excluded’ from the UK on the basis of national security. Furthermore, under ACRS, we have concerns about oversight, as there is no ARAP comparable internal review process, and applicants’ only recourse is to challenge decisions through judicial review.

Policy

- VI. During the course of the Working Group, the Home Office released the ‘Unsafe Journey’s Policy’,⁴ which partly clarified and reiterated, in parts, the standard of proof applicants must meet in their application, the necessity for applicants under ARAP to pay relevant fees and charges as part of the relocation process⁵ and the necessity for the provision of biometric data. The Government must review the standard of proof, the requirement of fees and the necessity of biometrics given that there are no processing centres in Afghanistan, so Afghans are forced to travel to third countries such as Pakistan for their biometrics to be processed where they remain without access to services whilst their application is considered. If Afghan applicants or referrals then receive a negative decision on their application, or are deemed unsuitable, they are left displaced in those third countries.
- VII. To adhere to the Rule of Law, an administrative system must be intelligible, clear, predictable, and accessible; all features which would assist in delivering good and fair administration. The way in which the Afghan Resettlement Schemes are delivered in practice raises serious concerns about their compatibility with these key features of the Rule of Law. Our recommendations seek to ensure that issues around eligibility and suitability; communication; the review process; delays; and evidential thresholds are addressed. Against the background aims of the schemes to recognise the role that Afghans took working alongside the UK Government in Afghanistan over

⁴ Home Office, Unable to travel to a Visa Application Centre to enrol biometrics (overseas applications), Version 1.0.

⁵ We recognise that these fees may not be required by the MoD or Home Office directly, but there are nevertheless costs incurred by applicants as part of the wider process.

20 years, and the risks for many now the Taliban have retaken control, it is crucial that the schemes are delivered effectively, consistently and expeditiously.

SUMMARY OF KEY RECOMMENDATIONS

Please find below a summary of the Working Groups Key Recommendations in respect of the ARAP relocation scheme and ACRS resettlement schemes.

The recommendations include proposed changes to improve the effectiveness and efficiency of processing and implementation of the schemes. We hope, that by implementing these recommendations, the Government will be able to fulfil its stated purpose of the schemes, arising out of the UK's specific role and mission in Afghanistan over the twenty years from 2001 to 2021:

- **Processing times must be improved:** The Ministry of Defence, Home Office and Foreign, Commonwealth and Development Office should improve their processing times for applicants under ARAP, and referrals under the ACRS
- **The need for clarity:** The Ministry of Defence, Home Office and Foreign, Commonwealth and Development Office must clarify the scope and material criteria for eligibility under ARAP and the ACRS into a centralised, published policy. This policy should include the evidential threshold and types of evidence required of applicants.
- **Clear timelines:** The Ministry of Defence, Home Office and Foreign, Commonwealth and Development Office should ensure that applicants are given clear timelines, including estimates, regarding their decisions and are updated if there are any changes to this timeline. Government departments should also set out what next steps will be taken on applicants and referral cases, and acknowledge when there are problems, such as delays, in the system.

- **Standard of Proof:** There should be a return to the standard of proof of balance of probabilities for satisfying decision makers of the nationality and identity of applicants

Afghan Relocation and Assistance Policy

- **Consistency in decision-making:** The Ministry of Defence, Home Office and Foreign, Commonwealth and Development Office must ensure there is consistent interpretation of the criteria, with a clear understanding of the breadth of the application of the criteria and the discretion open to decision-makers.
- **Greater detail:** There must be greater clarity and detail in decision letters which set out the grounds on which the Ministry of Defence, Home Office or Foreign, Commonwealth and Development Office have refused applications or referrals. These must enable applicants to understand the full basis of the decisions and fully consider whether to seek a review or appeal.

Afghan Civilian Resettlement Scheme

- **The need for clarification:** The Home Office must clarify the way it calculates the limit of the number of individuals who can qualify for the ACRS, the internal processes used by referral partners, and the criteria and/or method of assessment by which those, whom have already been determined as eligible under the ACRS, are determined as being of ‘priority’.
- **The need for guidance:** The Home Office must publish guidelines before an application year begins under Pathway 3, including pathway eligibility criteria in advance of the next annual ACRS applications period by at least 14 weeks.
- **Flexibility in evidence submission:** The Home Office and Foreign, Commonwealth and Development Office should provide referrals with the opportunity to submit evidence regarding “exceptionally compelling circumstances”.

Process and Implementation under ARAP and the ACRS

- **Improved communication with applicants and referrals:** The Ministry of Defence, Home Office, and Foreign, Commonwealth and Development Office must provide regular, formalised processes for communication with applicants and referral, and ensure there is clear communication regarding individual cases within government departments, reflecting the urgency and high levels of risk.
- **Publish data:** All relevant departments, including the Ministry of Defence, Home Office or Foreign, Commonwealth and Development Office Government, and Sponsoring Units, should publish more detailed and specific data on the Afghan Schemes.
- **Accessible primary Caseworkers:** Applicants and referrals should be assigned primary caseworkers, and the Ministry of Defence, Home Office and Foreign, Commonwealth and Development Office should provide a direct means of communication for applicants to provide and obtain updates on their applications.

Administration

- **Review of the Unsafe Journey’s Policy:** The Home Office should revise the Unsafe Journey Policy, and consider a lower threshold for unsafe journeys.
- **Review of Biometric Policy:** The Home Office should revise its policy on the submission of biometrics, including further discretion and flexibility, clarity as to the specific process for applicants under ACRS and ARAP biometric waivers, and consideration of whether Ministerial approval should be needed for excusing an applicant from biometrics.
- **Relocate expeditiously:** The relocation of eligible and suitable Afghans waiting to leave Afghanistan should be prioritised, expedited, and improved. This includes resuming relocation flights from third countries, ceasing reliance on “suitable” or non-hotel accommodation or self-funded accommodation in the UK prior to relocation; and a maximum waiting time in third countries before transfer to the UK.

I. METHODOLOGY

Our method of working

The Working Group first sat in January 2023, and met over the course of seven months identifying key barriers and possible solutions was iterative, as we consulted externally, discussed ideas and shared our own professional experiences at each stage of the process. We consulted with a wide range of professionals, all of whom had considerable knowledge and experience of the Afghan Resettlement Schemes. In addition, we were grateful for the opportunity to speak to several individuals with lived experience, and public bodies, such as the Ministry of Defence, Home Office and Foreign and Commonwealth Development Office to gather evidence and ensure accuracy.

Purpose

The purpose of the Working Group was to produce a report with a number of recommendations aimed at improving the process for Afghans seeking to resettle in the UK pursuant to the Afghan Resettlement Schemes.

Aims

The overall aim of this report was to ensure that Afghans seeking resettlement in the United Kingdom, pursuant to the Afghan Resettlement Schemes, have their applications and expressions of interest considered fairly, accurately, and expeditiously, recognising the discretion available to decision makers. Furthermore, our aim is that an effective, efficient and accessible review process be implemented. The Working Group considered comparative issues with other ad hoc immigration schemes including the Windrush Compensation Scheme and the EU Settlement Scheme with the view of making recommendations to improve the efficiency of such schemes by the Home Office; as such it will feed into an overarching Working Group on the comparative issues.

The Working Group had the following aims:

- To identify the procedures applied by relevant government departments considering applications;
- To improve interdepartmental communication to ensure a fair and efficient process;

- To improve decision-making, assessment and evidence gathering under the two schemes;
- To improve guidance on applications under ARAP, and expressions of interests under the ACRS;
- To reduce the periods in which applications are processed;
- To significantly improve communication with applicants and provide progress on their applications;
- To increase awareness of the two schemes and the application process;
- To improve the process to challenge decisions; and
- To increase the efficacy of the schemes as routes to safety and resettlement in the UK for individuals at risk, particularly following Operation Pitting applications.

Audience

Upon completion, this report will be presented to the Home Office, Ministry of Defence, the Foreign, Commonwealth and Development Office, the House of Commons Defence Committee, the House of Commons Foreign Affairs Committee, the House of Commons Home Affairs Committee, the Independent Chief Inspector of Borders and Immigration, the Independent Inquiry into the Withdrawal from Afghanistan, parliamentarians, relevant stakeholders, and the media.

II. INTRODUCTION

2.1 In November 2021, JUSTICE published its report ‘*Reforming the Windrush Compensation Scheme*’ (“WCS”),⁶ which made 27 recommendations to improve the Home Office’s delivery of compensation for individuals unable to demonstrate lawful immigration status due to Home Office maladministration. Based on its work, JUSTICE recognised that many of the issues identified with the administration of the WCS were applicable to ad hoc immigration schemes. Therefrom, JUSTICE began the ‘*Lessons Learning*’ project, a comparative review of the Afghan Resettlement Schemes, the European Settlement Scheme (“EUSS”), and the WCS. JUSTICE established Working Groups to identify the key issues under the two immigration schemes, and this report looks at the issues identified by the Afghanistan Resettlement Schemes Working Group.

*Background to the Afghan Resettlement Schemes*⁷

2.2 Following the terrorist attacks against the United States of America ("USA") on 11 September 2001, the USA led a military intervention against Al Qaeda groups, and the Taliban government in Afghanistan. The UK took a significant part in the USA's initial intervention. Subsequently, the operation was supported by NATO and a joint international force, collectively called the International Security Assistance Force ("ISAF"), in which the UK played a leading political, diplomatic and military role.

2.3 The mission evolved and expanded between 2001 and 2021. The emphasis of the UK mission changed focus over the years, with several overlapping themes:

- a. 2001 – 2002 - defeating the Taliban and hunting Al Qaeda.
- b. 2002 – 2005 – establishing democratic Afghan government processes and supporting infrastructure (a judiciary, an army, a police force, counter narcotics and a democratic electoral process), including through funding stabilisation and development programmes.

⁶ JUSTICE, *Reforming the Windrush Compensation Scheme*, A Report by JUSTICE, 15 November 2021.

⁷ With reference to the judgment of Lang J in *S and AZ* [2022] EWHC (Admin).

- c. 2005 – 2006 – major British force deployment into Helmand province, Afghanistan.
- d. 2007 - 2014 – Helmand: ongoing combat operations against Taliban guerrilla resistance in southern Afghanistan.
- e. 2011 – 2014 – preparing for departure from Afghanistan, transitioning to Afghan government and enabling the Afghan National Security Forces to take over responsibility for protecting the country.
- f. 2014 – 2021 – The withdrawal of ISAF. A drawdown of UK military forces to a non-combat, residual military presence, mentoring, coaching, training the Afghan security forces. Continued support for Afghan government capacity building broader development and humanitarian aid, and support for negotiations with the Taliban.⁸

2.4 In order to pursue their statutory functions, in particular to counter threats against the UK, the agencies need to work with a range of overseas security and intelligence services (“Liaison Services”) for the proper discharge of their functions.⁹ Moreover, the UK Government gave its support to the development of women’s rights in Afghanistan as summarised in its review *"The Future of Afghanistan: Development Progress and Prospects after 2014"*.¹⁰ On 29 February 2020, the USA and the Taliban signed the "Agreement for Bringing Peace to Afghanistan", otherwise known as the Doha Agreement, which provided for the withdrawal of all USA and allied military forces and civilian personnel from Afghanistan by 1 May 2021. The withdrawal was conditional upon the Taliban upholding the terms of the agreement that included a prohibition on Al Qaeda or any other extremist group operating in the areas

⁸ 'The UK and Afghanistan', House of Lords Select Committee on International Relations and Defence, pp.11-12 (13 January 2021) and T. Farrell 'Unwinnable: Britain's War in Afghanistan, 2001 – 2014', (The Bodley Head, London 2017) reports.

⁹ Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees July 2010.

¹⁰ House of Commons, International Development Committee, Afghanistan: Development progress and prospects after 2014, Sixth Report of Session 2012-2013, Volume I: Report, together with formal minutes, oral and written evidence.

they controlled. The withdrawal of the USA was later deferred to 31 August 2021.

- 2.5 The UK mission in Afghanistan included not only military and security, but also diplomacy and development interventions. Official UK aid totalled £3.5 billion between 2001-2021.¹¹ The UK National Strategy for Afghanistan was based on a military/civilian ‘comprehensive approach’, which brought together defence, diplomacy and development efforts to support building a viable Afghan state. This included the combination of stabilisation, governance, Rule of Law, human rights, and social/economic development interventions funded by the UK government.¹² As part of this approach, the UK Government gave its support to the development of women’s rights in Afghanistan.¹³
- 2.6 In May 2021, the Taliban launched a major offensive against the Afghan Armed Forces, and then made rapid advances. By 15 August 2021, the Taliban had seized Kabul. USA and NATO troops retreated to Kabul airport from where they operated an emergency airlift for all NATO’s civilian and military personnel, other foreign nationals, and at-risk Afghan nationals. The final British flight from Kabul took place on 28 August 2021. The last USA military planes left Afghanistan on 30 August 2021. Taliban soldiers then entered the airport and declared victory. The Taliban government has been in total control of Afghanistan since that date. The UK Embassy and other NATO Embassies have remained closed.
- 2.7 The UK Government initially intended to evacuate two groups. First, British nationals and their families, who were the responsibility of the FCDO. Second, Afghans who were given leave to enter the UK under ARAP, who were the responsibility of the MoD. The evacuation was given the name “Operation

¹¹ FCDO Press Release, *UK to provide £30 million of life saving supplies for Afghan Refugees*, 3 September 2021.

¹² See Stabilisation Unit, ‘[The UK Government’s approach to Stabilisation: A guide for policy makers and practitioners](#)’ (published 19 December 2018); S. Gordon, (Feinstein International Center, 2011) ‘[Winning Hearts and Minds?: Examining the Relationship between Aid and Security in Afghanistan’s Helmand Province](#)’ (published April 2022); Foreign Affairs Committee, ‘[Global Security: Afghanistan and Pakistan](#)’ ch 6 (published 21 July 2009).

¹³ See for example, *The Future of Afghanistan: Development Progress and Prospects after 2014* (n 10).

Pitting,” which took place between 16 and 28 August 2021. This represented the end of British military operations in Afghanistan.

- 2.8 As a consequence, Afghan civilians and staff, who assisted the British over a period of two decades, but were not able to be evacuated during Operation Pitting, were placed at particular risk of violence from the Taliban.
- 2.9 Prior to Operation Pitting, in recognition of the invaluable work contributed by Afghans and the inherent risk posed to them as a result of assisting the UK Government, two schemes were established, both of which included the possibility of resettlement to the UK: the Redundancy policy, later called the Ex-Gratia Scheme (“**EGS**”), established in 2006 and the Intimidation Policy (“**IP**”), established in 2010. Both these schemes were subject to significant criticism, and the IP was subsequently replaced by the Afghan Relocation and Assistance Policy (“**ARAP**”) in April 2021.¹⁴ ARAP was intended to provide a safe, expeditious route for Afghans who assisted the UK Government to leave Afghanistan and resettle in the UK. The scheme is dually administered by the Ministry of Defence (“**MoD**”), through its Defence Afghan Relocation and Resettlement Team, and the Home Office, within the Asylum Support, Resettlement and Accommodation Group, and relies in some instances on Sponsoring Units¹⁵ which provide supplementary information on applicants.
- 2.10 In January 2022, the Home Office established a second scheme, the Afghan Citizens Resettlement Scheme (“**ACRS**”), which was intended to assist a broader cohort of Afghans, including those who “*stood up for democracy, women’s rights, freedom of speech, and rule of law*”,¹⁶ vulnerable people, including women and girls, members of minority groups and the “**LGBT**”¹⁷ [QIA+] community.¹⁸ The Government capped admission numbers under this scheme at 20,000 individuals, which includes family members and Afghans already evacuated during Operation Pitting, among them, vulnerable groups.

¹⁴ *ibid.*, paragraph 14.

¹⁵ Home Office Meeting.

¹⁶ UK Visas and Immigration, and Home Office, *Afghans citizens resettlement scheme*, 4 July 2023.

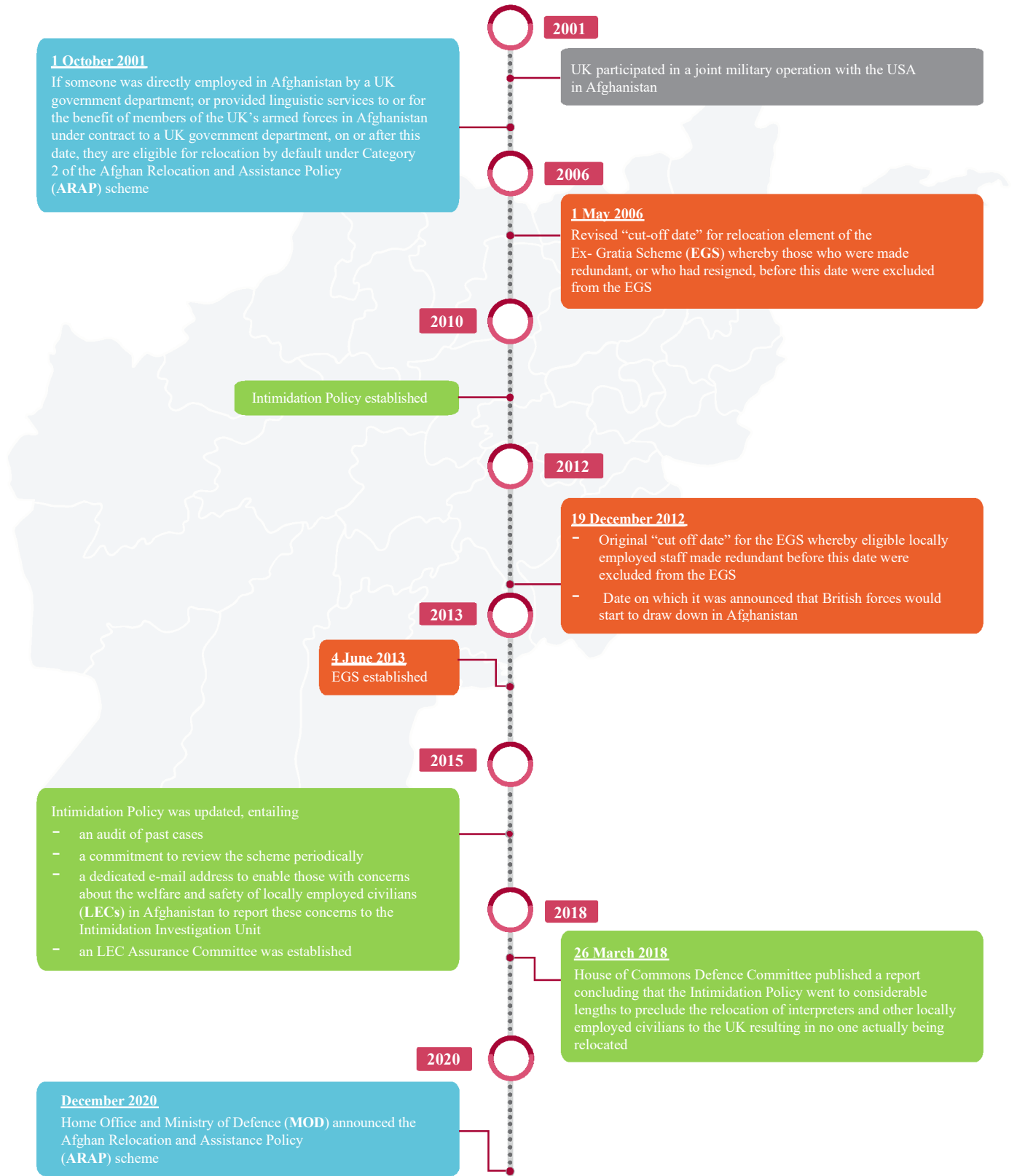
¹⁷ *ibid.*

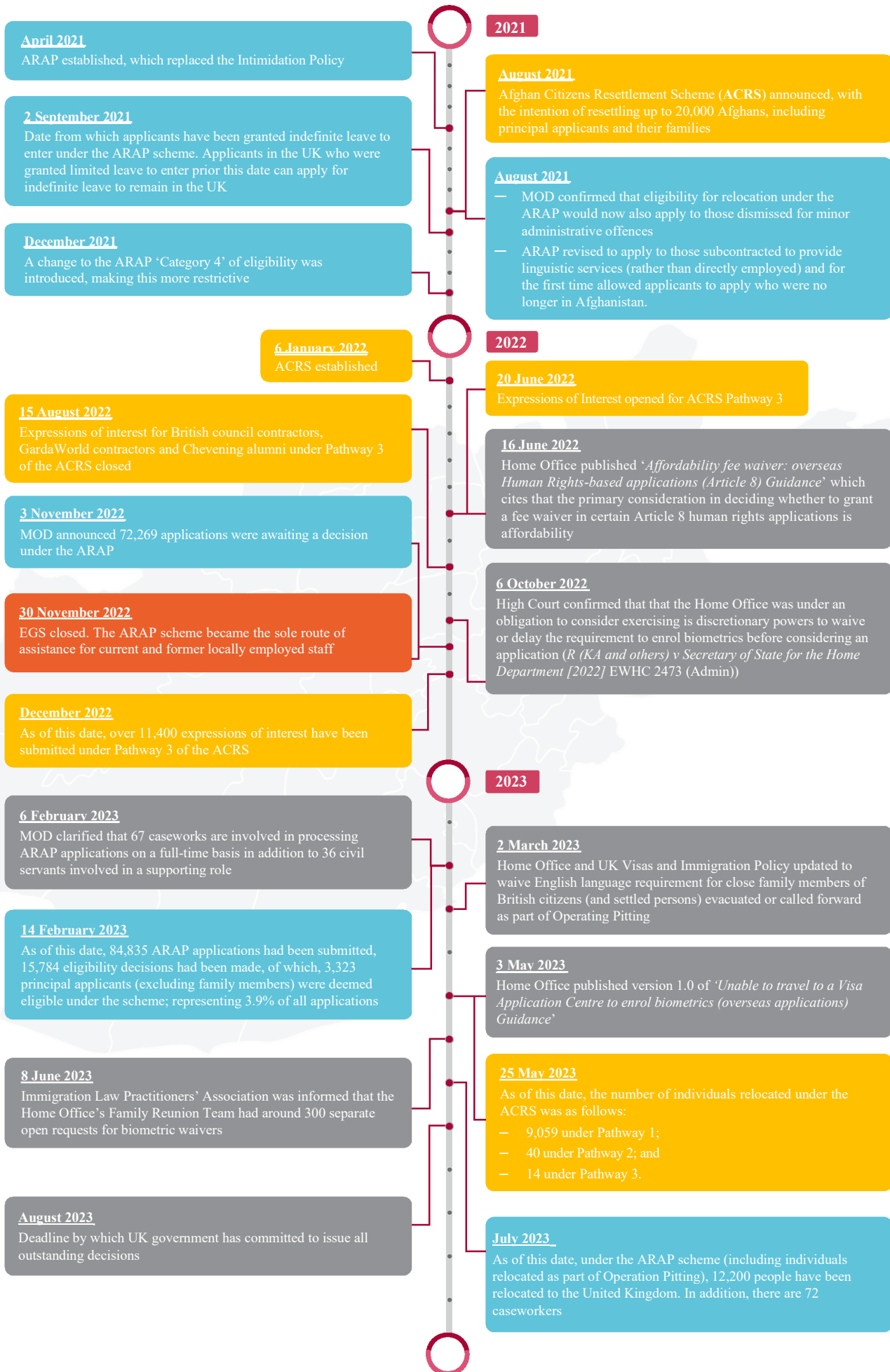
¹⁸ *ibid.*

TIMELINE

Key:

ARAP
 EGS
 Intimidation Policy
 ACRS





IV. AFGHAN RESETTLEMENT SCHEMES

- 4.1 Since 2010, the Government has operated four schemes, which offered to assist and relocate Afghans, at risk of Taliban reprisals on account of their association with the UK:
- a. The Intimidation Policy, 2010-2021;
 - b. The Ex-Gratia Scheme, 2013-2022;
 - c. The Afghan Relocation and Assistance Policy, 2021-present; and
 - d. The Afghan Citizens Resettlement Scheme, 2022-present.
- 4.2 All four schemes are set out below, subsequent to which, we highlight the issues identified with the two current schemes, ARAP and the ACRS, and the respective findings and recommendations of the Working Group.

Intimidation Policy

- 4.3 The Intimidation Policy (“IP”), 2010-2021,¹⁹ provided a mechanism for supporting Locally Employed Civilians (“LECs”)²⁰ who worked for the UK Government since 2001, regardless of their role, job, or length of service. The MoD administered the IP by through the Intimidation Investigation Unit (“IIU”) based in Kabul, Afghanistan. The basis of assessment under this scheme was whether an individual’s life was under “immediate threat”,²¹ and cases were triaged under a three-tiered system:
- Green: Lowest risk of harm. LECs were given security advice such as changing phone numbers or varying their routes of travel within Afghanistan;

¹⁹ House of Commons Library, *‘Resettlement scheme for locally employed civilians in Afghanistan,’* (HC 2021).

²⁰ Ministry of Defence, Quarterly Civilian Personnel Report (QCPR), 2016, see p. 29, “Employees are recruited...on terms and conditions of service applicable only to that overseas theatre or Administration, and p. 32, “They have not been recruited through fair and open competition in the UK under the Civil Service Order in Council and they are not therefore members of the Home Civil Service or the Diplomatic Service”.

²¹ Defence Committee, *‘Lost in Translation? Afghan Interpreters and Other Locally Employed Civilians,’* (HC 2017-2019).

- Amber: Risk of intimidation or harm considered more substantial. LECs could be awarded payments to cover the cost of internal relocation within Afghanistan, or reimbursed for the cost if they had already done so; and
- Red: Most serious cases. Only in these instances was relocation to the UK considered.

In written and published guidance, the MoD stated that during the period in which instances of serious intimidation were investigated, immediate action would be taken to remove an individual from risk. However, the MoD also emphasised that relocation to the UK under the IP was considered only as a last resort.²²

4.4 In 2015, the scheme was updated, and consisted of:

- An audit of past cases (around 160 at that point) by an independent barrister, with a commitment that 20% of future cases would be assessed;
- A commitment to review the scheme periodically;
- A dedicated e-mail address to enable those with concerns about the welfare and safety of LECs in Afghanistan to report these concerns to the IIU. This was targeted at members of the Armed Forces and officials who had served in Afghanistan and who had specific concerns about named individuals; and
- The establishment of an LEC Assurance Committee was established, chaired by the Minister of State for the Armed Forces;

4.5 In their report, the House of Commons Defence Committee (“**the Defence Committee**”) concluded that the scheme went to considerable lengths to preclude the relocation of interpreters and other LEC’s to the UK, resulting in no one being relocated.²³

4.6 The Defence Committee also compared the IP with the EGS, which enabled the relocation of 450 Afghan interpreters, and other LECs, as well as 700 dependent family members (total 1150). The Defence Committee also found that given the risks assessed to be present in Afghanistan by the UK

²² FCO, FCDO and MOD ‘*Supporting locally employed staff in Afghanistan*’, (18 February 2020).

²³ Defence Committee, ‘*Lost in Translation? Afghan Interpreters and Other Locally Employed Civilians*,’ (see n.21 above); Dr S. de Jong & Dr D. Sarantidis ‘*Divided in Leaving Together: The resettlement of Afghan locally employed staff*’ (Interdisciplinary global development Centre & University of York | May 2022).

Government at the time, it was implausible that Afghans should be denied relocation under the IP. The Committee therefore proposed a “*looser and more sympathetic approach*” to the application of the Intimidation Policy, a proposal mirrored by the Working Group in their recommendations.

The Ex-Gratia Redundancy and Resettlement Scheme

4.7 The EGS²⁴ ran concurrent with the IP, and was established 4 June 2013 by the Secretary of State for Defence. The scheme applied to individuals, Locally Employed Staff (“LES”)²⁵ who had been or were to be made redundant as a direct consequence of the UK’s reduced military presence in Afghanistan.

4.8 Under the scheme, the government made three key ‘redundancy’ offers:

- A financial package;
- Training with a financial support package; and
- The possibility for some LES to relocate to the UK (“the Relocation Offer”).

4.9 The Relocation Offer was made available to individuals who:

- resigned or had been made redundant on or after 1 May 2006;
- had been employed directly by the UK government at the time of their redundancy or resignation in a role in which they served for a minimum of 12 continuous months, and which took them regularly outside the wire on the frontline mostly in Helmand; and
- individuals whom the UK government considered to have put themselves in the most danger whilst serving the UK government in Afghanistan.

4.10 The Relocation offer was based on recognition of service and not on any future risk to LES.

²⁴ FCDO and MOD ‘*Afghanistan Locally Employed Staff Ex-Gratia Scheme: further information on eligibility criteria and offer details*’,(updated 13 October 2022); HO ‘*Afghan Relocations and Assistance Policy (ARAP)*’, (30 November 2022).

²⁵ FCDO and MOD ‘*Afghanistan Locally Employed Staff Ex-Gratia Scheme*’ (see n.24 above).

- 4.11 Eligibility for relocation was afforded to those who considered "to have put themselves in the most danger",²⁶ and were on operations outside the Helmand Province military base, wherein they would have faced regular danger from threats including insurgent forces and improvised explosive devices ("IEDs").²⁷
- 4.12 In 2018, the Relocation offer was expanded to include those who were made redundant on or after 1 May 2006, with 12 months or more continuous service outside 'the wire' on the frontline, mostly in Helmand province. Notably until 2020, those who resigned from employment were not considered eligible, a decision which was subject to criticism by the Defence Committee as arbitrary, because it failed to account for those who may have resigned because of safety fears. In October 2020, therefore the criteria were further extended to include LES who had resigned on or after 1 May 2006.²⁸
- 4.13 The EGS closed on 30 November 2022, at which point the Afghan Relocations and Assistance Policy ("ARAP") scheme, which was introduced to replace the IP, became the sole route of assistance for current and former LES's and LECs in Afghanistan. At the point in which the ARAP scheme was introduced, 526 individuals had been resettled with their family members under the Ex-Gratia Scheme.²⁹ Government guidance provided that at the decommissioning of the EGS, applications for relocation to the UK would be conducted through the ARAP scheme.

The Afghan Relocations and Assistance Policy

- 4.14 In December 2020, the Home Office, and the MoD announced the Afghan Relocations and Assistance Policy,³⁰ which was subsequently launched in

²⁶ *ibid.*

²⁷ PJHQ job roles NIG 3 L1-3 and NIG 4-6 and equivalent LES roles in other government departments.

²⁸ UK Parliament, 'Afghanistan: Refugees Question for Ministry of Defence', (tabled 6 June 2023).

²⁹ UK Parliament, Questions for. Ministry of Defence, 'Afghanistan: Refugees', 6 June 2023.

³⁰ Ministry of Defence, '[Afghan Relocations and Assistance Policy: further information on eligibility criteria, offer details and how to apply](#)' (updated 7 August 2023).

April 2021³¹ as an eventual replacement of both the EGS and IP.³² Currently, ARAP is dually administered by the MoD, under the Defence Afghan Relocation and Resettlement Team,³³ which was established between late 2021 and early 2022,³⁴ and the Home Office, who divide administration of ARAP among operations, policy and security teams. The MoD, and other Sponsoring Units,³⁵ in which applicants worked e.g., the National Crime Agency (“NCA”) are primarily responsible for making an initial assessment as to whether a principal applicant is eligible under one of four categories within the Immigration Rules, (originally under Part 7, and subsequently under Appendix Afghan Relocation and Assistance Policy (ARAP) following the introduction of that Appendix.³⁶

4.15 As of 28 July 2023,³⁷ the MoD confirmed that, since the launch of the ARAP scheme on 1 April 2021, it has received over 141,000 applications, a figure that includes duplicate applications. Latest statistics in August 2023 show that, under the ARAP scheme, just over 12,300 individuals have arrived in the UK, and there are approximately 2,417 eligible individuals (including family members) in third countries yet to relocate to the UK. In the first half of 2023, the MoD issued over 29,000 ARAP eligibility decisions, and in April 2023, they reinitiated contact with over 26,000 applicants who were, at the time, still awaiting decision at that time. The MoD have asserted that they aim to process all initial outstanding ARAP applications by the end of August 2023, by which point this report will have been published.

4.16 The MoD also helpfully clarified that as of June 2023, there were 195 members of staff assigned to the ARAP team. This includes both civilian and military staff in the UK and overseas, as well as contractors providing specialist

³¹FCDO and MOD ‘*Afghanistan Locally Employed Staff Ex-Gratia Scheme*’, at 5 (see n.8 above); MOD, Afghan Relocations and Assistance Policy: further information on eligibility criteria, offer details and how to apply (see n.30).

³² Expired in March 2021; FCDO and MOD ‘*Afghanistan Locally Employed Staff Ex-Gratia Scheme*’, at 5 (see n.24 above).

³³ FCDO and MOD ‘*Afghanistan Locally Employed Staff Ex-Gratia Scheme*’ at 10 (see n. 24 above).

³⁴ Information provided by the Ministry of Defence, 28 July 2023.

³⁵ Information provided by the Ministry of Defence, 28 July 2023.

³⁶ Home Office ‘Immigration Rules part 7’, (updated 25 July 2023).

³⁷ Information provided by the MoD, 28 July 2023.

services e.g., interpreters and cultural advisors. There are currently over 100 caseworkers (although the precise figure has not been confirmed) as of August 2023,³⁸ which we note is a notable increase from 67 on 6 February 2023.³⁹

Eligibility Determinations under ARAP

4.17 Under the ARAP scheme, there are four categories of eligibility, set out below.⁴⁰

Category 1: High and imminent risk of threat to life⁴¹

4.18 The MoD provide that applicants eligible under this heading must be “employees of the UK Government in Afghanistan on or after 1 October 2001 and who, because of that employment, are assessed to be at high and imminent risk of threat to life”.⁴²

4.19 Under Category 1, and other categories within ARAP, members of the Working Group were unclear what the MoD considered to constitute “*high and imminent risk*” and felt the wording of the threshold is unreasonably high. The Working Group also noted that, even on a balance of probabilities standard, the Government’s own background evidence is that there is a risk of serious harm to those persons identified to have supported the Governments mission in Afghanistan. Hence, the high and imminent risk test appears unnecessarily high and to have the effect of excluding, rather than including, persons whom the policy was designed to protect.

³⁸ *ibid*, 8 August 2023.

³⁹ Defence Afghan Relocation and Resettlement Policy (ARAP) Secretariat ‘FOI Request’, 06/02/2023.

⁴⁰ The criteria under ARAP have continued to change, which has led to applicants who have performed the same roles being treated differently, with some relocated and some deemed ineligible. The main change came in December 2021 with more restrictions. This summary will be the current categories as of summer 2023.

⁴¹ Home Office ‘Immigration Rules Appendix Afghan Relocation and Assistance Policy’, (updated 25 July 2023), ARAP 3.4.

⁴² MOD ‘Afghan Relocations and Assistance Policy: further information on eligibility criteria, offer details and how to apply’ (see n.30 above).

Category 2: Eligible for relocation by default (directly employed the UK government or contracted to provide linguistic support)

4.20 The MoD Guidance provides that under Category 2, at any time on or after 1 October 2001, a person must have been directly employed in Afghanistan by a UK Government department; or have 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.⁴³ The nature of an applicant's role must have:

- been 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;
- exposed them to being publicly recognised as having performed that role; and
- as a result of that public recognition, their safety must now be at risk.

4.21 As JUSTICE understands, the practical application of Category 2, under the ARAP scheme, is that labourers, contractors, and Afghans who worked on stabilisation or development programmes, recruited locally, who remain at high risk, are excluded from the scheme.

Category 3: Not eligible for relocation but other support is offered

4.22 The Working Group felt this category, which was introduced as a measure pre-evacuation under Operation Pitting, is now redundant, and recommended that it either be materially operationalised, or simply removed.

Category 4: "Special cases"⁴⁴

⁴³ *ibid.*

⁴⁴ *ibid.*; FCDO and MOD 'Afghanistan Locally Employed Staff Ex-Gratia Scheme', at 5 (*see n.24 above*), at 5; *see also R (CXI- CX8) v Secretary of State for Defence and Secretary of State for the Home Department* [2023] EWHC 284 (Admin), [39].

4.23 In their guidance, the MoD provide that applicants, considered under this category are eligible where:

- “on or after 1 October 2001, they were directly employed in Afghanistan by a UK Government department; provided goods or services in Afghanistan under contract to a UK Government department; or worked in Afghanistan alongside a UK Government department, in partnership with or closely supporting and assisting that department; and
- in the course of that employment or work or provision of services *they made a substantive and positive contribution to the UK’s military objectives or national security objectives* (which includes counterterrorism, counter-narcotics, and anti-corruption objectives) with respect to Afghanistan; and
- because of that employment or work or provision of services, the person is or was at an elevated risk of targeted attacks and is or was at a high risk of death or serious injury; or
- hold information the disclosure of which would give rise to or aggravate a specific threat to the UK Government or its interests”.⁴⁵

4.24 The MoD also clarified that any positive eligibility determination under ARAP, Category 4, must be signed off at ministerial level.⁴⁶

4.25 Within their written guidance the MoD confirm, albeit not explicitly, the role of SU’s⁴⁷: “Checks will be made with the UK Government department by whom the applicant was employed, contracted to or worked alongside, in partnership with or closely supported or assisted”.⁴⁸ The role of SU’s has been further confirmed in recent case law,⁴⁹ and with the MoD directly.

⁴⁵ MOD ‘Afghan Relocations and Assistance Policy: further information on eligibility criteria, offer details and how to apply’ (see n.30 above).

⁴⁶ Information provided by the MoD, 28 July 2023.

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ See [2023] EWHC 284 (Admin); LND1 and others v Secretary of State for the Home Department, Secretary of State for Defence v Secretary of State for the Foreign, Commonwealth and Development Affairs [2023] EWHC 1795 (Admin), [15].

Category 4 Case Note: R (CX1) v Secretary of State for Defence⁵⁰

- 4.26 The recent case of *R (CX1) v Secretary of State for Defence*⁵¹, established by way of disclosure, the existence of the Standard Operating Procedure. This clarified that in Category 4 ‘Special Cases’, senior officials from the Home Office, MoD, and FCDO should first agree on whether an applicant was eligible, and would in effect authorise a sponsoring department to submit a candidate to the public body, e.g. the National Crime Agency, for approval. JUSTICE understands that, where the MoD cannot satisfactorily establish eligibility of an applicant and an applicant has a ‘connection’ with another department, like the National Crime Agency, then the MoD will accordingly defer eligibility consideration to them. Thereafter, the relevant department should inform the MoD of their findings and confirm whether they are prepared to sponsor an applicant.⁵²
- 4.27 The Standard Operating Procedure provides that an individual must have made a ‘material contribution’ in order to qualify for resettlement. The threshold for a ‘material contribution’, referred to in CX1 appears to have been introduced into the assessment of a Category 4 case, by what was then paragraph 276BB5 of the Immigration Rules, Part 7.⁵³ Under the rules, an applicant must have been directly employed, contracted, or have ‘worked alongside’ a UK government department and must have made a ‘substantive and positive contribution’ towards the UK’s objectives in Afghanistan. These objectives are limited to the UK government’s military objectives and the UK government’s national security objectives. In addition, an individual must **either** be at an elevated risk of targeted attacks and at high risk of death or serious injury **or** hold information that would give rise to or aggravate a specific threat to the UK government or its interests.
- 4.28 The nature of material contribution was raised by the Working Group. Members noted that British military forces considered those employed by the

⁵⁰ [2023] EWHC 284 (Admin).

⁵¹ See MoD ‘Acronyms and Abbreviations’, (published 15 August 2014) p. 337.

⁵² Information provided by the MoD confirms that a Sponsoring Unit decides whether it will sponsor an applicant.

⁵³ Home Office ‘Immigration Rules archive: 1 June 2022 to 19 June 2022’, (published 21 June 2022), p. 158.

Labour Support Unit (“LSU”) to be *directly* employed by the UK Government, whereas individuals hired directly by special forces by the FCDO or by the British Army post-2014 where *indirectly* employed.⁵⁴ This issue was addressed, to an extent, by ARAP policy amendments in 2021, when changes to Category 2 was expanded to include contracted linguists. The Working Group also noted that Afghans working for the British Army in other capacities, such as labourers, mechanics are subject to refusals -- despite the fact that they were directly employed -- and are not considered as not meeting one of all or three listed criteria.

Stabilisation and Development Intervention Staffers

4.29 Beyond interpreters and special forces operators, the nature of the employment or contracting relationship between Afghan civilians and the UK government was also raised by the Working Group and they noted that the ARAP scheme itself does not adequately recognise other categories of Afghans who contributed to UK government operations, which supported the UK National Security Strategy for Afghanistan. In particular, the UK had a significant portfolio of stabilisation and development interventions funded by the then Department for International Development (“DFID”) and Foreign and Commonwealth Office (“FCO”) now merged as of September 2020 within the FCDO. These interventions were delivered by implementing organisations (such as non-governmental or commercial organisations). This cohort of Afghans, staff or contractors of implementing organisations, also made “*a substantive and positive contribution to the UK’s military objectives or national security objectives*” in line with the UK National Security Strategy for Afghanistan. These initiatives were aligned to help bring about the UK National Security Strategy for Afghanistan objective of a sufficiently viable Afghan state to help ensure that Afghanistan could not be retaken by the Taliban, and again become a secure base for Al-Qaeda and ISIS.

In this regard:

⁵⁴ Dr S. de Jong & Dr D. Sarantidis ‘*Divided in Leaving Together: The resettlement of Afghan locally employed staff*’ (interdisciplinary global development Centre & University of York) (May 2022) (see n.23).

- Programmes on themes such as sub-national governance, tax reform, financial management, service delivery, economic development or livelihoods often contributed to anti-corruption, counter-narcotics and counter-terrorism objectives: and
- Stabilisation and development programmes also developed Afghan state, business and civil society structures to support national security objectives of a stable, viable Afghanistan to off-set future UK national security threats.

4.30 The operational reality is that Afghans may have supported the British in less formalised capacities. Furthermore, ARAP Category 4 in particular limits special cases to those who can demonstrate they pursued national security or military objectives, including ‘anti-corruption’, ‘counter-narcotics’, and ‘counterterrorism’ objectives.

Application process under ARAP

4.31 An application made under Category 4 of ARAP is initially considered by the MoD, and where the MoD need further information to verify the role undertaken by an applicant, the MoD will seek information or input from that department to inform an eligibility decision, referred to as ‘sponsorship’. Applicants who meet initial eligibility requirements,⁵⁵ will then be informed of that decision, and will then be invited to attend an appointment for a UK Visa at the Visa Application Centre (“VAC”); for applicants in Afghanistan, the closest VAC is in Islamabad, Pakistan.

4.32 Applicants are then subject to an entry clearance and a suitability review by the Home Office. This requires applicants to provide documentary and biometric data. As with VACs, the closest centres able to process biometric data are in Pakistan, Iran and Turkey. The Home Office retains discretion to refuse an applicant entry clearance, on the ground that their ‘presence in the UK is not conducive to the public good because of their “conduct, character, associations, or other reasons”’.⁵⁶ In making a ‘non-conducive’ determination,

⁵⁵ FCDO and MOD ‘Afghanistan Locally Employed Staff Ex-Gratia Scheme’ at 10 (see n. 24 above), at 11.

⁵⁶ Immigration Rules, Part 9: grounds for refusal, at 9.3.1; See also *Alo & Ors, R. (On the Application Of) v Secretary of State for the Home Department* [2022] EWHC 2380.

the Home Office rely on the *Suitability: Non-conductive ground for refusal or cancellation of entry clearance or permission*.⁵⁷

4.33 When the Home Office grant an applicant entry clearance, initially, applicants received five years of limited leave to enter (“**LTE**”). However, since 2 September 2021, applicants have been granted indefinite leave to enter (“**ILE**”) and applicants in the UK granted LTE before that date may apply for indefinite leave to remain in the UK (“**ILR**”) at any time during the five-year period.⁵⁸ In the experience of members of the Working Group, some applicants were also granted ILR⁵⁹ for several immigration pathways.⁶⁰ For Afghans seeking ILR outside of ARAP, for example, a skilled worker, the rules provide for an English language test requirement.⁶¹ However, Home Office and UK Visas and Immigration Policy (updated on 2 March 2023) waives the English language requirement for close family members of British citizens (and settled persons) evacuated or *called forward* as part of Operation Pitting.⁶² The Home Office has identified individuals under the ACRS as having been ‘called forward’ for the purposes of the English Language requirement waiver.

Challenging an Eligibility decision

4.34 The MoD may also reject an applicant under ARAP, where, if directly employed by, or contracted to, a UK Government Department, they were dismissed (except in circumstances where the UK Government considers that the person was dismissed for a minor reason). Where a declaration of incompatibility is made by the MoD, and applicant they may seek an initial review on two grounds:

- i) New evidence to support a case that was not initially available; and

⁵⁷ Home Office, *Suitability: non-conductive grounds for refusal or cancellation of entry clearance or permission*, version 2.0, 10 November 2021.

⁵⁸ HO and UKVI ‘Afghanistan resettlement and immigration policy statement’, (updated 26 July 2023), [20].

⁵⁹ HO ‘Immigration Rules archive: 1 June 2022 to 19 June 2022’ (see n.53 above).

⁶⁰ UKVI ‘Assessing the English language requirement: caseworker guidance’, (updated 30 May 2022).

⁶¹ HO ‘Assessing the English Language Requirement’ (published 30 May 2022).

⁶² HO and UKVI ‘Afghanistan resettlement and immigration policy statement’ (see n.59 above)

ii) A decision was not made in accordance with the policy.

- 4.35 The MoD provides that “applicants deemed ineligible are entitled to a review of their application, and a request for a review must be submitted within 90 days of receipt of the outcome letter, save for where there are compelling circumstances which have prevented an applicant from meeting this deadline.”⁶³
- 4.36 Case studies provided by the Working Group highlight that in some instances, where applicants submit a request for review of an ineligibility decision, they do not receive a response unless and until they follow that request with a pre-action protocol letter.⁶⁴
- 4.37 Review policy and practice varies according to the relevant support units, and there were delays in support units establishing review processes,⁶⁵ which remain unpublished in some cases. However, in summary, when an ineligibility determination is subject to review, a review panel is established, which is chaired by a senior member of the reviews team and further consists of:
- 4.38 In addition, where cases have a legal component, advice is sought from MOD Legal Advisors and the Government Legal Department.⁶⁶
- 4.39 The Working Group reported that it is often the case that grounds for dismissal, and information contained in Afghan personnel records are unfair and inaccurate,⁶⁷ but constitute a significant aspect of the MoD’s decision to exclude applicants from the scheme.

Further Requests

- 4.40 If applicants are still dissatisfied with the outcome of the review, there is no further opportunity to have this decision reviewed. However, the MoD has

⁶³MOD ‘Afghan Relocations and Assistance Policy: further information on eligibility criteria, offer details and how to apply’ (see n.30 above), ‘The Review Process’.

⁶⁴ A letter raising the prospect of legal action.

⁶⁵ See *R (BAL & others) v Secretary of State for Defence* [2022] EWHC 2757 (Admin) at [56].

⁶⁶ Information provided by the MoD, 28 July 2023.

⁶⁷ Members of the Working Group and Interviewees.

acknowledged the possibility of “further requests for review” on an exceptional basis if compelling new evidence is provided that was unavailable at the time of the initial decision or review. The precise definition or scope of a further request for review does not yet appear to have been considered or identified and set out clearly in writing in a formal policy document. Subsequent to a review, however, there is no statutory right to appeal, and the only option is for applicants to pursue a closed material procedure. In more recent refusals, the Home Secretary has certified further requests for adjudication by the Special Immigration Appeals Commission (“SIAC”) under s.2F of the SIAC Act 1997.

Suitability

- 4.41 Subsequent to an approval of eligibility, the Home Office considers whether an applicant poses a potential security risk to the UK. Under the current rules, individuals can be refused a visa under ARAP and the ACRS on national security, or ‘non-conductive’ grounds⁶⁸ through the powers of the Home Secretary. However, the grounds on which the Government might exclude an applicant, under section 9.3.1 of the Immigration rules, ‘Non-Conductive Grounds’ are vague.⁶⁹
- 4.42 Unlike the right to review of an MoD eligibility decision, there is no right of review against a national security decision issued by the Home Office, and the only route of challenge for applicants if refused on the basis of suitability is a judicial review. Judicial reviews are conducted using the closed material procedure, under Part 2 of the Justice and Security Act 2013.⁷⁰ The Working Group noted that typically, first instance decisions are now being certified for SIAC, which requires applicants to apply to SIAC for a review of their decision. Legal aid funding applications are usually granted by the Legal Aid

⁶⁸ Information on terminology from Home Office, 25 July 2023.

⁶⁹ HO ‘Immigration Rules part 9: grounds for refusal’ (updated 9 August 2023). See: 9.3.1. An application for entry clearance, permission to enter or permission to stay must be refused where the applicant’s presence in the UK is not conducive to the public good because of their conduct, character, associations or other reasons (including convictions which do not fall within the criminality grounds; 9.3.2. Entry clearance or permission held by a person must be cancelled where the person’s presence in the UK is not conducive to the public good.

⁷⁰ Deighton Pierce Glynn, ‘ICIBI Inspection: Afghanistan Resettlement Schemes’ Evidence of Deighton Pierce Glynn Solicitors, (amended 03/03/2023).

Agency due to the importance of the issues at stake, subject to the merit of the individual legal arguments and the means tests for eligibility.

Family Reunification under ARAP

- 4.43 Under ARAP, where an Afghan citizen or their partner relocate to the UK, family members not included in the initial application, cannot subsequently apply under ARAP, and must instead make an application directly to the Home Office to join their family in the UK. A ‘direct’ application, as referenced by the MoD in their guidance on ARAP, is simply an application for limited leave to enter under the Immigration Rules (Appendix FM). Under the Immigration Rules, the criteria a relative to apply depends upon their relationship with the principal applicant settled under ARAP.
- 4.44 The MoD and Home Office underline that an individual relocated to the UK under ARAP does not have refugee status and are therefore ineligible to sponsor family members under the Refugee Family Reunion Rules (now contained in Appendix Family Reunion (Protection)).⁷¹

Afghan Citizens Resettlement Scheme

- 4.45 The Afghan Citizens Resettlement Scheme (“ACRS”) was announced in August 2021, and opened in January 2022, with the express intention of resettling up to 20,000 Afghans, including principal applicants and their families,⁷² and an estimated additional 5000 Afghans already based in the UK. Thus far, 9,059 places have been allocated under the scheme to those who arrived during Operation Pitting under ACRS pathway 1. As of March 2023, only 40 individuals have been relocated under ACRS pathway 2, and 14 under ACRS pathway 3.⁷³

⁷¹ See Home Office, ‘Refugee and humanitarian protection leave in asylum claims lodged before 28 June 2022’, (28 June 2022) p. 9; UKVI ‘Indefinite leave to remain (permission to stay as a refugee, humanitarian protection, or Discretionary leave’.

⁷² UKVI and HO ‘Afghan citizens resettlement scheme’ (updated 24 July 2023).

⁷³ HO ‘Afghan Resettlement Programme: operational data’ (updated 25 May 2023).

- 4.46 The ACRS is broad and applies to those who have “assisted the UK efforts in Afghanistan and stood up for values such as democracy, women’s rights, freedom of speech, and rule of law”⁷⁴ and includes “women and girls at risk, and members of minority groups at risk (including ethnic and religious minorities and LGBT+)”.⁷⁵
- 4.47 Individuals resettled under the ACRS will receive ILR and may apply for British citizenship in the UK five years after their initial settlement. Those resettled under Pathway 2 also receive refugee status, as ACRS is not restricted to Afghan nationals. Pathway 2 also receive ILR as well as refugee status.⁷⁶
- 4.48 Referrals under the ACRS will be considered under one of the three pathways:
- **Pathway 1:** Vulnerable/at risk, notified by the UK government that they would be evacuated for example, on departing flights on from Kabul during Operation Pitting. Many who were evacuated were retrospectively included in this pathway created and announced in January 2022.
 - **Pathway 2:** Referral from the United Nations High Commissioner for Refugees; often in a third country like Pakistan. This pathway opened in June 2022, with up to 2,000 places in the first year.
 - **Pathway 3:** The first year of this pathway was also opened in June 2022, and prioritised British Council contractors, GardaWorld contractors⁷⁷, and Chevening alumni (up to 1,500 places).⁷⁸ They were invited to submit Expressions of Interest, which were considered by the FCDO, acting as the referral partner for the Home Office, for these three cohorts.⁷⁹ In June 2023, expected criteria for other cohorts under the second year of pathway

⁷⁴ UKVI and HO ‘Afghan citizens resettlement scheme’ (see n.72 above).

⁷⁵ *ibid.*

⁷⁶ *ibid.*

⁷⁷ 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. See: FCDO ‘Afghan Citizens Resettlement Scheme Pathway 3: eligibility for British Council and GardaWorld contractors and Chevening Alumni’ (25 July 2023).

⁷⁸ *ibid.*; UK Government’s International Scholarships Programme.

⁷⁹ House of Commons Library ‘UK Immigration routes for Afghan Nationals’ (26 January 2023); UKVI and HO ‘Afghan citizens resettlement scheme’ (see n.72 above).

3 were not announced. They became ‘stage 2’ of pathway 3, with no indication on timelines or criteria.⁸⁰

4.49 Home Office guidance on the scheme provides that the FCDO considers Expressions of Interests in the order they are received, and prioritises them based on:

- The role performed (for GardaWorld contractors);
- The role performed and the project on which they worked (British Council Contractors); and
- Exceptionally compelling circumstances.

4.50 British Council and GardaWorld contractors and Chevening alumni (“**third pathway applicants**”) were initially invited to seek resettlement under the ARAP scheme, during Operation Pitting. However, this group have since been transferred for resettlement under the ACRS, and although 1,500 Afghans (capped at 1,500 under this pathway) were initially expected to be resettled during summer 2022, over 11,400 Expressions of Interests have been submitted under the third pathway as of 15 August 2022.⁸¹ There are approximately 109 principals and 381 dependents accommodated in Pakistan, and 16 principals and 55 dependents accommodated in other third countries eligible under the Afghan Citizens Resettlement Scheme Pathway 3, whilst others are still awaiting eligibility decisions in Afghanistan.⁸² The capped 1,500 figure includes principal applicants and their dependent family members.⁸³

4.51 Given the limited number of places available under this Pathway 3, aid workers which are not clearly eligible under ARAP are also unable to seek safety and

⁸⁰ UKVI and HO ‘Afghan citizens resettlement scheme’ (see n.72 above).

⁸¹ M.Gower, House of Commons, *UK immigration routes for Afghan nationals*, (26 January 2023), at p.4.

⁸² UK Parliament, ‘Afghanistan: Refugees’ (tabled 2 June 2023).

⁸³ We note that 1350 of 1500 places have been allocated and that decisions have been communicated on 98% of the Expressions of Interests.

resettlement under ACRS. The International Development Committee concluded.⁸⁴

Family Referrals under Pathway 3 (ACRS)

4.52 Guidance from the FCDO provides that principals are “able to bring certain family members” with them to the UK.⁸⁵ These include:

- A spouse or civil partner
- Any dependent children under 18 at the time the Expressions of Interest was submitted (which includes children of the principal and children of their accompanying spouse or partner)

4.53 In addition, the relevant guidance states that the FCDO may consider additional family members for resettlement in exceptional circumstances.

4.54 The Home Office Guidance for Additional Family Members under ACRS Pathway 3⁸⁶ provides information on what constitutes an exceptional circumstance where they are considering family resettlement. This includes:

- An assessment of whether an individual is sufficiently dependent on the principal in circumstances that are exceptional and compelling to warrant resettlement alongside the principal.⁸⁷

4.55 The Home Office⁸⁸ emphasises that, in particular, cases will be considered where there are specific vulnerabilities or specific circumstances faced by an

⁸⁴ “We are disappointed that Afghan aid workers have not been explicitly recognised in the Afghan Citizens Resettlement Scheme (ACRS). We are very concerned about the time being taken by the Government to implement the ACRS and whether Afghan aid workers will receive protection under that scheme. (Paragraph 34)”. See also The House of Commons, International Development Committee, [Afghanistan: UK support for aid workers and the Afghan people Fifth](#) Report of Session 2021-2022, (HC 919) (4 March 2022) (see n.55).

⁸⁵ HO ‘Additional family members under Pathway 3 of the Afghan Citizens Resettlement Scheme (accessible)’(updated November 2022).

⁸⁶ Home Office, *Guidance, Additional family members under Pathway 3 of the ACRS*, (11 November 2022).

⁸⁷ *ibid.*

⁸⁸ We note that the FCDO contacts individuals.

additional family member which have led to an exceptional level of dependence on the principal. In such cases, consideration of exceptional circumstances will include an assessment of whether the family member would be unable, even with the practical and financial help of the principal or their eligible spouse/partner, to obtain the required level of care or protection in their current location and where there is no other person who can reasonably provide it”.⁸⁹

Exceptional Family Resettlement under Pathway 3

4.56 The Home Office (in reference to the FCDO) clarify that Expressions of Interest can no longer be made,⁹⁰ and have asserted that they will contact principals identified as eligible in principle for Pathway 3, year 1, with further information on how requests for Additional Family Members (“AFM”) can be made.

Evidence

4.57 Home Office guidance provides that any request for consideration of an AFM must be accompanied by supporting documentation to verify:⁹¹

- both the relationship between them and the principal; and
- evidence of reasons confirming the nature and extent of any dependency on the principal.⁹²

4.58 The Guidance clarifies that key factors assessed under an AFM request, ‘include the proximity of the family relationship and the family circumstances of the individuals involved (including the nature and extent of any dependency)’.⁹³ Examples of acceptable documentary evidence to be provided to demonstrate relationships can include, but is not limited to, the following:⁹⁴

⁸⁹ Home Office, *Guidance, Additional family members under Pathway 3 of the ACRS*, (11 November 2022) (see n.86).

⁹⁰ *ibid.*

⁹¹ *ibid.*

⁹² *ibid.*

⁹³ *ibid.*

⁹⁴ *ibid.*

- marriage certificate;
- death certificate;
- birth certificate;
- documents to confirm genuine transfer of parental responsibility of a child;
- documents to confirm medical conditions; and
- documents evidencing residence⁹⁵

⁹⁵ *ibid.*

V. AREAS FOR IMPROVEMENT

In this section, we will cover areas for improvement more fully as identified by the Working Group, followed by our recommendations. The recommendations address each of the schemes and elements of the process underlying them, such as eligibility and suitability, communication, review, unsafe journey policy, delays on fee waivers, and biometric processing, procedural issues in the application process.

Eligibility and Suitability under ARAP

- 5.1 This chapter examines the process for individuals applying under the ARAP Scheme, and decision-making undertaken by the Government in regard to eligibility and suitability.
- 5.2 Given the varied issues identified by the Working Group, discussions and Recommendations under this heading have accordingly been divided into seven sections:
 - I. Lack of Clarity;
 - II. Application process;
 - III. Delays;
 - IV. Lack of Transparency;
 - V. Decision-making;
 - VI. Family Reunification; and
 - VII. Suitability
- 5.3 Under Category 4 “Special Cases”, interpretation of Category 2 criteria, and Family Reunification. The Working Group highlighted the difficulties and unpredictability encountered by principal applicants when published guidance does not set out in sufficient detail the factors and features of eligibility criteria, the content of unpublished guidance, the decision-making process of decisionmakers, and the inadequate digital platforms, through which applicants must provide evidence in support of their applications.

Lack of Clarity

- 5.4 The features and factors by which a determination is made under the material criteria in Categories 1, ‘*high and imminent risk*’, and Category 4, ‘Special

Cases' of the schemes, remain elusive. Whilst published policy sets out the basic requirements of both categories, the terms employed in policy and legislation is wide, and without further guidance, would appear to encompass a significant proportion of Afghans seeking to apply.

- 5.5 As set out in the 'Background' section, under Category 1 of the ARAP scheme, an applicant must have faced a *high and imminent risk of threat to life*. Given the circumstances in which many Afghans find themselves, under the Taliban regime, this is unhelpfully broad.
- 5.6 Under Category 2 "the nature of the applicant's role must have been such that the UK's operations in Afghanistan would have been *materially less efficient* or *materially less successful* if a role of that nature had not been performed⁹⁶." Furthermore, the applicant's role must have exposed them to being publicly recognised as having performed that role and, as a result of that public recognition, their safety be now at risk".⁹⁷The terms employed by Government, such as 'materially less efficient' are, in JUSTICE's view, unhelpfully abstracted. It is difficult, arguably impossible, for an applicant, seeking to resettle under Category 2 of ARAP, to determine whether the UK government will consider their role to have been sufficiently important to the UK's operations in Afghanistan, to meet what appears to be an arbitrary, superficial threshold. Words such as 'efficient' and 'successful' in this context are highly subjective, and therefore, attribute or assign a great deal of discretion to decision makers.
- 5.7 The same issue, with clarity of thresholds arose in the context of Category 4, 'Special Cases', in which the operative test for eligibility is whether an applicant made a 'substantive and positive contribution' to the UK's objectives in Afghanistan.
- 5.8 Notwithstanding, it is beyond the remit of this report to comment upon the content of substantive criteria, i.e., whether it is appropriate to predicate eligibility for relocation to the UK on risk. As a matter of procedural clarity and transparency, we take the position that where published guidance is

⁹⁶ MOD 'Afghan Relocations and Assistance Policy: further information on eligibility criteria, offer details and how to apply' (see n.30 above), category 2.

⁹⁷ *ibid.*

unclear, it leaves applicants and their legal representatives unable to properly determine the key features of relevant policy and legal requirements. Questions were raised by the Working Group as to what constitutes:

- High and imminent risk of a threat to their life, (Category 1);
- Materially less efficient or materially less successful (Category 2);
- Exposure to public recognition and risk resulting from that exposure (Category 2);
- Substantive and positive contributions to the UK’s military or national security objectives, (Category 4); and why Category 4 would not encompass a broader set of stabilisation and development objectives beyond counter-terrorism, counter-narcotics and anti-corruption.
- High risk of death or serious injury, (Category 4); and
- Supporting UK Government departments, i.e., “worked in Afghanistan alongside a UK Government department, in partnership with or closely supporting and assisting that department”.⁹⁸

5.9 The lack of clarity under these headings has, in the view of the Working Group, resulted in a great deal of discretion afforded to caseworkers and ministers with oversight of determinations,⁹⁹ to the detriment of applicants who are unclear how to successfully evidence their applications. This is compounded by the existence of subjective assessment criteria, based on new thresholds and legal tests. In our view, merely setting out the basic criteria provided in policy, or even a simplified version thereof, is insufficient to provide clarity for applicants to understand whether they are eligible to settle in the UK against the backdrop of a constantly changing legal landscape.

Recommendation 1:

- I. The ARAP criteria should reflect the spirit in which the scheme and framework were established; to provide a safe, efficient and rapid means whereby Afghans with a link to the British mission through their work can relocate to the UK.

⁹⁸ Home Office ‘Immigration Rules Appendix Afghan Relocation and Assistance Policy’ (see n.41 above).

⁹⁹ Ministers who have made decisions even after eligibility has been approved.

- II. This means that the Ministry of Defence and Home Office should generously interpret and apply the ARAP criteria, in recognition of the breadth of discretion available to the decision maker and to give effect to the intention of the ARAP policy.

- III. The scope and material criteria for eligibility under Categories 1-4 must be set out clearly, in a centralised published policy, which includes practical guidance as to the threshold and type of evidence required of principal applicants, and guidance regarding the factors and features under consideration for the determination of the following:
 - a. Whether the UK operation would have been materially less efficient or materially less successful if a role or roles of that nature had not been performed by the applicant;
 - b. Whether the applicant's role exposed them to being publicly recognised as having performed that role and, as a result of that public recognition, their safety is now at risk;
 - c. Whether the applicant has a high and imminent risk of threat to life;
 - d. Whether the applicant was at any time on or after 1 October 2001 directly employed in Afghanistan by a UK Government department, including what roles of employees who were directly employed by a UK Government department in Afghanistan are considered as being outside the remit of Category 2;
 - e. Whether the applicant worked in Afghanistan alongside a UK Government department, in partnership with or closely supporting and assisting that department;
 - f. Whether the applicant made a substantive and positive contribution to the UK's military objectives or national security objectives (which includes counter-terrorism, counter-narcotics and anti-corruption objectives) with respect to Afghanistan; and
 - g. Whether the applicant is or was at elevated risk of targeted attacks or is or was at high risk of death or serious injury.
 - h. The MoD should acknowledge that persons who are publicly recognised as having performed a role in support of the UK mission are at risk, merely because they have done so, and therefore, that risk should be evaluated against the accepted background evidence and on a balance of probabilities / real risk evidential standard. This

should go beyond anti-corruption, counter-terrorism and counter narcotics (listed for Category 4), to include other objectives, such as stabilisation, development and upholding the rule of law which contributed to the UK's national security objectives for Afghanistan. In evaluating this risk, the MoD should continue to liaise with other government departments, such as the FCDO, and undertake proactively to identify the nature and degree of that risk. Such a duty of inquiry is, and would continue to be consistent with the overall aims of the scheme, notwithstanding that it is an application-based process.

Application Process

- 5.10 The bisected process, whereby an applicant must first submit an online form, and await an invitation by the MoD to submit further evidence in support of their application, was noted by the Working Group as being unnecessarily convoluted, on the basis that applicants are only provided the opportunity to attach and submit evidence post-application submission. This process results in applicants sending large amounts of supporting documentation and information, entirely separate from their applications, which often leads to a failure with administering departments to match document sets and link the documents to the application.
- 5.11 The consequence of this process is that in circumstances where the administering department has been unable to locate an applicant's evidence, they issue a further request. However, given the circumstances in which many applicants find themselves, often in hiding from the Taliban, without access to internet services, further requests from UK government departments, such as the MoD, present life-threatening challenges for applicants and their families. We also note however that the MoD and Home Office are both conscious of this operational reality.¹⁰⁰

Delays

- 5.12 The Working Group identified severe and detrimental delays under the ARAP scheme, which they address under Recommendation 2. The Working Group also reported that delays in the administration of applications, successful or

¹⁰⁰ Discussions with the Home Office and MoD.

not, have resulted in applicants and their families, including minors, being subject to arrest and torture. Support for the assertion that there have been significant delays, can be found in Annex A, wherein we have included a handful of case study examples. The Working Group considered that the process is further delayed, under ARAP Category 4, where approval must be given at ministerial level.

5.13 The consequences of delays under both ARAP and the ACRS, are severe and include:

- continued and extreme risk of violence or death posed to principal applicants and their dependents still resident in Afghanistan;
- high levels of poverty and starvation amongst Afghan citizens whilst waiting for relocation, including those who have made it to third countries such as Turkey, Pakistan and Iran; and
- long-term accommodation in the UK and third countries, or those who have been relocated, such as in hotels, still subject to poor administration; and now facing eviction.

Supporting Case Study

We were informed by an Afghan journalist who remains in Afghanistan that: “As a journalist, me and my sister face many challenges and are at risk of violence. We are scared to leave our house and have been in hiding over the months. We have been threatened 3 times so far. The ACRS scheme was our only hope of escape. ***The UK Government said they wish to help people who are in danger but in reality they are not doing anything and it is only a lip service***”.¹⁰¹

Another Afghan woman, who has now been relocated to the UK, informed us that whilst waiting in a third country, she had no access to money, and it was therefore very difficult to feed her children without the support of money sent from her family in the UK. Now relocated to the UK, she had been living in a hotel for a year and a half and has been informed that she must move out of the hotel and find somewhere to live for herself and her family. She

¹⁰¹ Information shared through a form produced by JUSTICE.

explained that she will likely also lose her job as a hotel receptionist and will therefore be without means to support her family.¹⁰²

Recommendation 2:

- I. The Ministry of Defence and Home Office must improve processing times for principal applicants and their families, for applications under all ARAP categories;
- II. This requires that the Ministry of Defence honour its commitment to issue all outstanding decisions, as soon as possible and no later than the end of August 2023;
- III. In addition, the Ministry of Defence should implement a three-month maximum decision window for any new straightforward ARAP applications (of principal applicants and their family members, under all categories) made from 1 September 2023;
- IV. The administering department should write to the applicant with clear reasons as to why their application has been delayed, if the three-month processing window cannot be met;

Lack of Transparency

5.14 A consistent issue, raised by the Working Group, was a lack of transparency in MoD and Home Office decision-making. Undoubtedly, the Government, particularly including the MoD and Home Office, rely upon internal guidance, which decision makers consult. However, this is not disclosed publicly unless as a result of court proceedings.¹⁰³ Under ARAP, the critical examples of unpublished guidance relate to, for example, Category 1, and the guidance by which an individual's case may be expedited (Category 2), and the treatment of individuals terminated from their employment, and 'Special Cases' (Category 4).

5.15 In addition, the Government have not been forthcoming, even when subject to litigation, in the provision of decision-making notes, presumably detailing the

¹⁰² Interview with an Afghan who came to the UK under ACRS (as a female judge).

¹⁰³ See [2023] EWHC 284 (Admin).

precise reasoning and grounds for which an applicant has been refused on grounds of eligibility or suitability. The critical issue, which appears to run throughout all the cited examples of opaque government decision-making, is that applicants are left entirely unclear as to the precise reasons for refusal. This means that applicants, in such circumstances, face a great deal of difficulty in launching a Judicial Review, unaware of the precise grounds against which they should appeal. Where they have been disclosed, for example in *R (BAL & others) v Secretary of State for Defence* [2022] EWHC 2757 (Admin), they disclosed a decision-making process that irrationally downgraded an internal risk assessment showing the risk against the applicants to be “High-Almost Certain/Highly Likely”. Disclosure was therefore crucial in its conclusion. The lack of disclosure is therefore deeply concerning, and risks undermining the UK’s adherence to the precepts of the Rule of Law, which dictate that law and procedure must be accessible; intelligible; clear; and predictable.

Recommendation 3

- I. The Ministry of Defence, and where applicable Home Office, should set out with greater specificity and detail, the grounds on which, or reasons why an individual’s application has been refused, using clear and precise language, to enable applicants to understand the basis of the decisions and consider whether to seek a review.
- II. Decision-making notes and reasons for refusals should be accessible to applicants, with the provision of reasons as and where there are redactions, and be served with negative decisions, in particular for decisions about family reunification and on internal recommendations from other government departments about Category 4 (“Special cases”).
- III. The Ministry of Defence, and where applicable, Home Office, should provide internal and external guidance on how a case designated under another Category 4 may be re-categorised and thus prioritised under Category 1.
- IV. The Ministry of Defence and Home Office should provide greater transparency on the process of decision-making for Category 4 panels, as well as the process and content of evidence considered by those panels.

Consistency of decision-making and Interdepartmental Communication

5.16 The Working Group were informed by the MoD and Home Office that inter-departmental communication between the Ministry of Defence, Home Office, and Foreign, Commonwealth, and Development Office was frequent, at operational, policy and security levels – including a deputy director level. However, they also noted that some processes were not the same across the board. This issue is most clearly highlighted in the context of AFM’s. Whilst there there is an option for a negative decision to be reviewed, which JUSTICE acknowledges as consistent with good administrative practices, the process for doing so is not the same across administering departments, nor is the process easily understood through already published guidance.

Recommendation 4

- I. The Ministry of Defence and Home Office should establish and publish clear lines of responsibility for administrative processes;
- II. The Ministry of Defence and Home Office should ensure there is consistent interpretation of the criteria over the duration of the ARAP scheme;
- III. The Ministry of Defence and Home Office should ensure decision makers have a clear understanding of the breadth of the application of the criteria; and
- IV. The Ministry of Defence and Home Office should monitor and evaluate its decision-making to ensure prompt and consistent outcomes.

Categories 1-3 under ARAP

Category 1, “High and Imminent Risk or Threat to Life”

5.17 As set out above, and consistent with the lack of clarity identified across all categories, the precise content and definition of *high and imminent risk of threat to life* under Category 1 has not been sufficiently detailed, in written

guidance, by the MoD. Consequently, applicants and their legal representatives cannot determine how the department decides which applicants face a high and imminent risk or threat to life, as opposed to a diminished and less than imminent risk; and therefore, under what circumstances applicants might have their case expedited. The absence of clear factors and features under consideration leads, in our view, to unpredictability and opaqueness in the law and its application. The same issue arises, in our view, for applicants applying for resettlement under Category 1. There is an expedited process where an applicant is at a higher risk, yet there is no published guidance to understand the basis for determinations of what in fact constitutes being at higher risk.

5.18 Often, applicants who are considered eligible for relocation through the expedited process, are nevertheless subject to the same extended waiting times as non-exceptional cases. The result is that applicants who have a legitimate expectation that resettlement will quickly follow a positive decision, on the basis that they constitute a class of applicants at a greater risk of torture or execution, are left exposed.

Recommendation 5

The Ministry of Defence and Home Office should publish clear guidance on:

- I. How cases are prioritised under ARAP Categories 1, 2, and 4;
- II. Under what conditions cases are expedited;
- III. Cases that have been subject to expedited processing, and have resulted in a positive outcome for applicants, be followed by an expedited process of relocation and resettlement.

Category 3 (“Not eligible for relocation but other support is offered”)

5.19 The Working Group considered this category, which was introduced as a measure to assist Afghans pre-evacuation under Operation Pitting, to be redundant. It is unclear what measures the Government has or may implement as support for Afghans eligible under the scheme. Whilst JUSTICE make no recommendations as to what support ought to be offered, we consider that any other relevant measures should be provided, so as to ensure this category is not

redundant, or if this appears to be untenable, that the category simply be removed. On this point, we note the absence of applicants processed under this category.

Category 4, 'Special cases'

- 5.20 This category was highlighted as being the one in which most individuals make applications, and one on which the Working Group expressed the most concern and frustration. A critical issue in this category, and the subject of litigation, is the government's position on the nature and status of employment required by the government.
- 5.21 For an applicant to be considered eligible under Category 4, they must have been directly employed, contracted, or have 'worked alongside' a UK government department, and in partnership with or closely supporting and assisting that department, and must have made a 'substantive and positive contribution' to the UK's military objectives or national security objectives in Afghanistan. In addition, an individual must either be at risk of an elevated attack and at a high risk of death or serious injury, or hold information that would give rise to, or aggravate a specific threat to the UK government or its interests.
- 5.22 The nature of what constitutes a 'substantive and positive contribution' for the purposes of Category 4 has not been clarified by the government, and this causes significant legal uncertainty. A critical observation made by the Working Group was that whether an Afghan was directly or indirectly employed by a UK government department, the fact that they were assisting the British in their efforts in Afghanistan nevertheless identified them as making a material contribution.
- 5.23 The Working Group expressed concern that administering authorities under this category refused applicants where they:
- provided goods or services in Afghanistan under contract to a UK Government department (whether as, or on behalf of, a party to the contract); and
 - worked in Afghanistan alongside a UK Government department, in partnership with or closely supporting and assisting that department; a

view substantiated by the findings in CX1 v MoD/Secretary of State for the Home Department, wherein a threshold of ‘material contribution’ appears to have been introduced into an assessment under Category 4.

Recommendation 6

- I. The Ministry of Defence should recognise that persons who are publicly recognised as having performed a role in support of the UK mission are at risk, merely because they have done so, and therefore, that risk should be evaluated against the accepted background evidence and on a balance of probabilities / real risk standard. This should go beyond anti-corruption, counterterrorism, and counter narcotics (listed for Category 4), to include other objectives, such as stabilisation, development and upholding the Rule of Law.
- II. In evaluating this risk, the Ministry of Defence should liaise with other government departments, such as the FCDO, and should undertake proactively to identify the nature and degree of that risk. Such a duty of inquiry is consistent with the overall aims of the scheme, notwithstanding that it is an application-based process.

Recommendation 7

- I. The Ministry of Defence and Home Office should review the scope and process of management and assessment under Category 4 (‘special cases’) applications, including:
 - a. The criteria and scope of eligibility under Category 4 under ARAP;
 - b. The threshold and type of evidence required of principal applicants; and
 - c. Greater transparency on the process of decision-making panels, and the process/content of evidence.

Family Reunification

5.24 Family reunification is a critical and difficult process for applicants under both ARAP and the ACRS. Afghans come from large families, which are not consistent with western conceptions of the ‘nuclear family’. This small, but critical distinction is one that appears to have escaped the family reunification

criteria, which do not provide for assistance to dependent children over 18. The Working Group considered there to be a need for an inclusive reunion policy. The Working Group also noted that a coherent and effective policy on family members of ARAP, and ACRS Pathway 1 principal applicants, left behind, has yet to emerge nearly two years after Operation Pitting. Principals are specifically excluded from the new Family Reunion Appendix, and there are significant issues with using the Appendix FM interim policy, not least on account of the complexity of such principals, and unreasonable requirements (such as English language requirements).

Dependents

5.25 Under ARAP, changes to the number of dependents for a principal applicant, subsequent to submission of an initial application, are not permitted. This was identified by the Working Group as a significant issue, considering that between the submission of their initial application and resettlement applicants may have children, or simply become responsible for additional family members.

Processes

5.26 A second issue identified under family reunification, is that family members are not considered under a principal applicant's application, until the eligibility of the principal has been considered, and subsequently approved. Whilst there is logic to this approach, wherein should the principal applicant's eligibility fail, so too would that of their dependents and family members, this approach causes long delays. Given, as set out already, the serious consequences to Afghans waiting for cases to be processed, we suggest that decisions made in principle could be sped up if family members are to be considered at the same time as principal applicants, without the need for further evidence.

Recommendation 8

- I. Family members should be considered at the same time as the main applicant to avoid delays, and to enable families to travel together as a family unit;
- II. The relevant Government department should consider the resettlement of other family members, and granting family members outside of the

immigration rules where necessary, to recognise the structure of Afghan families;

- III. The relevant Government departments should make provision for applicants to update their dependents list prior to decisions being made and after having been moved to the second stage and granted resettlement under ARAP; and after having been moved to the second stage and granted resettlement under ARAP.

Suitability

5.27 As set out above, there is no internal avenue of review to a suitability decision within the current framework of ARAP, as is the case with an eligibility decision and applicants are only able to challenge a national security (non-conductive) decision by way of Judicial Review. Two critical observations were made by the Working Group under his heading, which formed subsequent recommendations on clearer decision-making, and ‘advance warning and additional processes’.

Clearer decision-making

5.28 Given that the only means whereby applicants may challenge a declaration of unsuitability under the ARAP scheme is Judicial Review, decision letters must be clear, precise, and well-reasoned, allowing applicants to understand the reasons for their exclusion, thus allowing them to mount a challenge if and where appropriate. Furthermore, as set out above, JUSTICE is of the view that there must be disclosure of decision-making notes.

Advance warning, and additional process

5.29 A connected issue with the process of suitability is that applicants are not put on notice that their applications will be refused. The Working Group reported that in many cases, when given the opportunity, applicants are often able to provide evidence contextualising whatever the issue may be with their application and can allay the Home Office’s concerns. The same can be said for decisions to exclude applicants on the basis that they were dismissed from the post during British military operations. On that basis, the Working Group considered that applicants must be given early opportunity to challenge a possible negative decision, with a more accessible and clear process for the

submission of further evidence. Indeed, the Working Group noted that in the course of litigation, they have been permitted to submit further evidence, through less formal means, and have been successful in a number of cases. In the interests of justice, JUSTICE takes the view that representations earlier in the process may allow for more efficiency in the process.

Recommendation 9

- I. “Minded to refuse” notifications should be served by the Government, to put applicants on notice that the relevant authority is thinking about refusing an application under ARAP.
- II. These notifications must be sufficiently detailed so that applicants understand the rationale behind potential refusals and are aware of how to submit further evidence and what evidence to submit in order to address the concerns raised; and
- III. Applicants and their representatives should be given a reasonable period of time to submit further evidence.

Eligibility and Suitability under the ACRS

5.30 This section examines the process for individuals referred under the ACRS, and the barriers that exist within this process.

5.31 The implications and consequences of uncertainty in policy and decision-making, reported by the Working Group, is that Afghans in hiding from the Taliban are presented with a host of challenges. Many of these challenges, place the principal applicants and their families, which include minors, in extremely dangerous circumstances encountered in part because they cannot predict how the UK’s law will function: whether they will be invited to apply; whether when they do apply, they fit the criteria; if they do fit the criteria, whether they will be eligible; and if they are, when they will be resettled.

Transparency and Fairness

Numbers Cap

- 5.32** The ACRS was opened in January 2022, with the express intention of resettling up to 20,000 Afghans, including principal applicants and their families. As of August 2021, 9,059 places were allocated, but notably, that figure was constituted of Afghans already resettled in the UK. As of March 2023, only 40 individuals have been relocated under ACRS pathway 2, and 14 under ACRS pathway 3.¹⁰⁴
- 5.33** The Working Group expressed deep concerns with the considerable lack of admissions under the ACRS for Afghans not already present in the UK. Furthermore, the projected figure of 20,000 is far lower than the number of those already admitted, and contrasts with projected figures of the UK's international counterparts, such as Canada, which has committed to resettling at least 40,000 Afghans by the end of 2023.¹⁰⁵
- 5.34** As with the recommendations made under the ARAP scheme, it is outside the remit of JUSTICE to comment on the appropriate number of admissions for government to provide under the ACRS. However, the Working Group suggests that the Government should clarify the basis upon which it has calculated its projected admission figures, the reasons for advancing a cap-based framework, as opposed to a more flexible quota framework, and to set out why family members and those already present in the UK constitute part of the overall figure for ACRS admissions. Furthermore, the Working Group noted that whilst it may not be a legitimate expectation, it is not best practice for good, transparent administrative decision-making, to introduce ex post facto restrictions on a limited framework, which serve to undermine the intention of offering a scheme/route to safety, given those people evacuated had already reached safety.
- 5.35** As with ARAP, the Working Group considered there to be a lack of clarity as to the reasons for the Government's approach, which includes the rationale for the caps under the scheme, and the inclusion of those already in the UK, and their family members.

Recommendation 10

¹⁰⁴ HO 'Afghan Resettlement Programme: operational data' (see n. 73).

¹⁰⁵ VOA news, A.Dawi 'Canada on Track to Host Largest Afghan Resettlement Program' (9 May 2023).

For the purposes of calculating the number of individuals permitted to resettle under the ACRS, the Government should revisit the limit on the number of individuals who can qualify for resettlement, and:

- I. The Government should recognise that the ACRS was intended to be forward looking and not retrospectively counted. Hence the numbers included in ACRS Pathway 1 (of individuals evacuated to the UK under Operation Pitting) should be excluded from the 20,000 cap; and
- II. The cap should apply to principal applicants and not to their dependents.

Furthermore, that:

- III. The Government should clarify the way in which it calculates and its justification 'for each pathway or cohort' cap under the ACRS.

Role of Administering Department, Sponsoring Units and Referral Partners

5.36 The Working Group discussed the role of Government departments in the admissions process. It was noted that some departments, for which applicants worked during British military operations in Afghanistan, were responsible for, or otherwise called upon to sponsor or refer applicants, depending upon whether an individual fell under ARAP or the ACRS. However, the Working Group note that the formal role of SU's and Referral Partners remains unclear. The process, wherein administering departments, such as the Home Office, and where relevant the FCDO (other than under Pathway 3, stage 1 where the FCDO is itself a referral partner) request supporting information from referral partners lacks transparency and clarity, which in our view raises substantive issues of fairness.

5.37 Where the information provided by a referral partner, for example, as to the perceived level or priority, or role undertaken by an individual, is not provided through a formalised mechanism, it cannot be properly subject to query or challenge, other than through more adversarial mechanisms, such as Judicial Review. If an applicant disagrees with the decision taken by a referral partner, potentially arrived at through records and analogous evidence provided, they cannot challenge this view if the sponsorship is not recognised in any formal

capacity. The fairness of this process is further questionable, when one considers that the criteria by which an applicant's 'level' of priority is determined by a Sponsoring Unit, referral partner or administering department is also absent. On this latter point, the Working Group suggested that the basis for determination as to who may constitute 'priority' ought to be further clarified.

Pathways 1-3

5.38 The Working Group's discussion focused predominantly on the issues which were found to arise under Stage 1, of Pathway 3 of the ACRS, applicable only to British Council Contractors, GardaWorld Contractors, and Chevening Alumni.

Pathway 1

5.39 As with Category 3 under ARAP, members of the Working Group considered this section to in effect be redundant, since August 2021, on the basis that no policy has yet been implemented under this Pathway, which provides for applicants to bring their family members to the UK.

Pathway 2

5.40 Pathway 2 is subject to the United Nations High Commissioner for Refugees, published resettlement criteria and is focused on the protection of vulnerable people.¹⁰⁶ During the course of their discussions, members of the Working Group confirmed that people resettled under this pathway have refugee status, and thus different rules for family resettlement apply. Furthermore, whilst the Working Group made no recommendations in relation to this Pathway, it noted that resettlement under this pathway was slow to begin, and because this pathway alone is insufficient to resettle vulnerable Afghans, the need for functional alternatives is necessary.

Pathway 3

5.41 The majority of the Working Group's discussion, and subsequent recommendations under the ACRS, focused on Stage 1 of Pathway 3: British Council contractors; GardaWorld contractors; and Chevening alumni.

¹⁰⁶ UNCHR 'Resettlement criteria'.

Application cycle

- 5.42 When the ACRS formally opened on 6 January 2022, it was understood that this was the beginning of the ‘first year’. It later appeared to be the case that the first year might be calculated from 20 June 2022, when Expressions of Interest could be submitted for Pathway 3. In the most recent update to guidance, the Government updated the first ‘year’ to the first ‘stage’ of applications, under Pathway 3 of the ACRS. The precise implication of this change remains unclear, and JUSTICE would welcome clarification on this point from the government, particularly in light of the fact that Pathway 3 is non-operational for new cohorts.
- 5.43 Without further clarity, expert members of the Working Group have suggested that the amended wording could represent an attempt to detach the application and admission cycles from a yearly cycle; and thus allow the Government more time to process applications. However, this will have caused significant uncertainty for applicants and their legal representatives who were waiting for the second year of Pathway 3 of the ACRS to open to other Afghans who are at risk, and for GardaWorld and British Council contractors and Chevening alumni who fell outside the 1,500 cap of the first year of Pathway 3.
- 5.44 Critical to the amended policy change, for the purposes of recommendations is that without further clarity, policy makers, legal representatives, and most importantly potential referrals cannot be certain of the periods in which they will be referred for resettlement under the scheme, nor whom will be included, and whether they will constitute part of that cohort.

Recommendation 11

- I. The Home Office should devise and publish a 3-year plan for relocating a minimum of 20,000 principal applicants (not evacuated under Operation Pitting) and rapidly announce the eligibility criteria for the remaining cohorts whose lives remain at risk or who face poverty and hardship.
- II. The Home Office must publish guidelines before the processing year begins under ACRS Pathway 3 to explain: (a) when the processing period begins, for example ‘Year 2 starts on x day in x month’; (b) who is eligible

under Pathway 3 in that given year; and (c) how many places are left under Pathway 3;

- III. As part of efforts to improve the process, and on the basis that the processing periods under ACRS Pathway 3 are annual, the Home Office and FCDO where relevant should publish the pathway eligibility and prioritisation criteria in advance of the next annual ACRS Pathway 3 processing period by at least 14 weeks, and ideally at the closing of the previous ACRS Pathway 3 processing period.

Criteria and submission of evidence

5.45 The criteria for invitation of applicants, the cohort eligibility check, application and positive decisions are uncertain and lack transparency. The Home Office’s guidance on the scheme provides that the FCDO is responsible for considering Expressions of Interest in the order they are received, and prioritises them (where relevant) on the basis of:

- the role performed;
- the project on which they worked; and
- exceptionally compelling circumstances.¹⁰⁷

5.46 These terms, as with ARAP criteria, are very broad, and applicants are unable to intuit from wording alone, whether they will be eligible. Within these criteria, the Working Group emphasised “exceptionally compelling circumstances” as being an operative threshold that lacked any helpful definition in FCDO or Home Office guidance. Without clarity, the ACRS remains inaccessible to many applicants, who cannot determine, without further assistance from legal representatives, who themselves have only extrapolated an understanding through litigation, what constitutes eligibility and prioritisation.

Case Study

¹⁰⁷ FCDO, [ACRS Pathway 3: eligibility for British Council and GardaWorld contractors and Chevening Alumni](#), (updated 25 July 2023).

Regarding evidence, one Afghan with lived experience of ACRS told us that:

“The only thing that all the applicants did not know was the evidence. Apart from National IDs and passports and Tazkiras (Afghan Identity Card), all other documents that were requested as evidence were not defined clearly. This led to some confusion, and ultimately refusal from the FCDO against some very genuine requests from the applicant, e.g, I was asked to provide evidence of my additional family members whom I had applied for to accompany me to the UK- they were financially and psychologically dependent on me. I did my best to provide some evidence which led to the refusal of my application for my additional family members.”¹⁰⁸

The Working Group also emphasised the risk that vulnerable groups, women, children and members of the LGBTQIA+ community face under the ACRS. Government guidance provides that applications are to be ‘prioritised’, but there is no further information as to how the government embarks upon such prioritisation. As with the ARAP scheme, and other features of the ACRS, without clarity, the application of the law is unpredictable.

Recommendation 12

- I. The Home Office should publish the internal process or policy by which referral partners contribute to, or are otherwise involved in, the decision-making process for Pathway 3 of the ACRS;
- II. The Home Office, and where relevant the FCDO should clarify how evidence can be submitted for a non-applications-based process, given that applicants are only expressing an interest;
- III. The Home Office, and where relevant the FCDO, should publish guidance to address the lack of clarity regarding how the scheme functions, including the various relevant criteria, such as a determination as to ‘priority’ under the scheme (excluding those relocated during Operation Pitting);

¹⁰⁸ Afghan with lived experience of ACRS submitted through form produced by JUSTICE.

- IV. The Home Office, and where relevant the FCDO should clarify the criteria and/or method of assessment by which those deemed eligible under the ACRS are determined as being of ‘priority’.
- V. The Government should provide clear guidance on:
 - a. How cases are prioritised; and
 - b. Under what conditions cases are expedited.
- VI. Cases that have been subject to expedited processing, and have resulted in a positive outcome for applicants, must be followed by either an expedited process of resettlement or clarification on the extent and purpose of expedited processing; and
- VII. The Home Office, and where relevant the FCDO should provide applicants with the opportunity to submit evidence regarding “exceptionally compelling circumstances”, which is a basis on which the FCDO stated it was prioritising expressions of interest under Year 1 of ACRS Pathway 3, or any new criteria used for prioritisation.

Delays under the ACRS and Evidence submission

5.47 A primary issue raised by the Working Group was the experience of the British Council, GardaWorld and Chevening Alumni in particular. These Applicants have experienced significant delays despite assurances prior to, and during Operation Pitting, that they would be relocated. Initially, they were told they would be relocated under ARAP, and then that they would be relocated under ACRS. Some applicants under this Pathway are still awaiting a decision on their application. As with ARAP, the processing times should be reduced and as already covered under Recommendation 2, the ‘improved process times for principal applicants and their families and subsequent relocation, under all categories’. A second concern raised by the Working Group was that as part of the process, applicants should be provided sufficient opportunity to submit evidence in support of their applications.

Case Study

On the process, we were informed by an ACRS applicant that “*it took almost one year since we came to know it was successful. However, the final stage to*

*forward our application to the next stage for visa issuance took one and a half a years[s]*¹⁰⁹ This delay seems wholly inefficient, putting Afghans at extreme risk and suffering while they await the decision of their application.

Recommendation 13

- I. The Home Office, and where relevant the FCDO, should provide all Pathway 3 decisions within three months of closure of the expression of interest processing period and have target of relocation to the UK within three months of a decision being made.

Family Reunion

5.48 The Working Group noted that family reunification under ARAP and the ACRS was in need of harmonisation. Under the ACRS, the Working Group considered the Government to have asserted that applicants under Pathway 1 could bring their family to the UK, but nevertheless continue encounter huge obstacles in securing reunions. The assignment of rights to applicants, and what status these ought to adopt is a substantive legal issue, beyond the remit of this report. However, as the Working Group highlighted, the Government have failed to provide policy, which creates a route to act upon government assurances under the scheme, and the current ACRS guidance does not provide sufficient information or detail, explaining how the process works for Afghans, under the ACRS, attempting to bring their families to the UK to settle. A prime example of this was presented to JUSTICE, through the lived experience of an applicant; a journalist successfully evacuated to the UK.

Case Study

The applicants elderly mother remains in hiding in Afghanistan, because the ACRS does not permit reunification.¹¹⁰ The Taliban were able to find out where the applicant lived through her mother, who lived in the applicant's house in Afghanistan, had been threatened on several occasions, and was informed by the Taliban that her child was a spy for the British government. Despite campaigning in the UK, and requesting assistance from various

¹⁰⁹ Afghan with lived experience. Submitted evidence in form produced by JUSTICE.

¹¹⁰ Lived Experience interviewee, female journalist.

organisations, the Home Office have been unable to assist because the policy only included immediate family members. No consideration has been to other close family members who are also at risk.

Recommendation 14

- I. The Home Office, alongside referral partners, such as the FCDO, must clarify the process by which applicants under the ACRS can secure family reunification.
- II. The Home Office, as part of clarifying the process, should harmonise its definition of family across the government Afghan settlement schemes. This may include expanding the definition of ‘family’ beyond the nuclear family, in a manner which is more reflective of Afghan family units.

Exclusion

5.49 The ACRS does not currently provide for a process of internal review, comparable to that under ARAP. If an applicants want to challenge a negative decision, their only recourse is to request a Judicial Review. This absence is in conflict with the necessity of proper appeal rights within any given administrative system under the Rule of Law. As with ARAP, applicants may have any number of reasons to challenge a decision by government administering departments.

Case Study

Speaking of their experience of ACRS, a radio journalist informed us that:

“I started the application 28/06/2022. And I got rejected in 13/03/2023. They did not provide a reason. The attachment they included I was unable to access. I emailed to challenge their decision stating that they had not asked for any evidence or information how could they make a decision. This was a month or so ago and I still have not heard back. I had so many setbacks. All the telephone numbers which were advertised on British Government website inaccessible.”¹¹¹

¹¹¹ Afghan who applied and was rejected for ACRS. The information was submitted through a form.

Communication under ARAP and the ACRS

- 5.50 The third sub-group examined cross-departmental communication between government departments, as well as between the Government, applicants, and where relevant, their legal representatives. The sub-group approached this topic under two primary headings, Internal and External communications, and within the latter, Guidance and Data and Updates and Decisions.
- 5.51 As stated, both ARAP and the ACRS are administered by multiple Government departments: the Ministry of Defence; the Foreign, Development and Commonwealth Office; and the Home Office. In addition, there are several Government departments responsible for sponsoring individual applicants who they employed during the British mission in Afghanistan. The Working Group observed, however, that a critical issue, which appears to flow from the multi-departmental administration of the schemes, is lack of intercommunication.

Departmental meetings

- 5.52 The manner in which the Government has constructed both the ARAP and ACRS schemes clearly relies on communication between departments. Information used to determine eligibility, the role undertaken by applicants, their employment status, the risk posed to them by the Taliban, their dependents, and family members are all details relevant to their eligibility, thus information to be taken up by the MoD or FCDO, and relevant for exclusion determinations by the Home Office. The Working Group noted however, that despite the interconnected resettlement regime constructed by the government, applicants regularly face difficulties with inconsistent decision-making.

Recommendation 15

- I. The Government must establish a structured process in relation to interdepartmental communication, with greater clarity of application criteria across relevant government departments, including MoD, FCDO and Home Office.

External Communications

The Working Group returned to the topic of external communication throughout their examinations of the two schemes, an issue that cuts across all aspects and stages. The Recommendations of the Working Group have been provided under the following headings:

- I. Guidance and Data; and
- II. Case Management, Updates and Decisions;

Guidance and Data

- 5.53** Data is a vital source of information, which constitutes part of a transparent government. Not only does data regarding the operation of ARAP and the ACRS assist civil society in its assessment of how effective, fair, and competently administered their operation is, it also enables individuals or group applicants who are to be processed through that system, to better understand, and therefore predict how such systems function. This allows them to better adapt, and plan accordingly. In the context of Afghan resettlement, greater information undoubtedly makes a huge difference on the lives of applicants, and their families, fleeing Taliban rule.
- 5.54** However, the Government have not provided substantive data with sufficient frequency, and when it has done so, the information has lacked adequate detail; for example, not setting out how many principal applicants have been admitted, separate from dependents. Where applicants and their representatives have been unable to rely upon regularly published government data, charitable organisations, caseworkers, and lawyers have had little recourse, but to submit Freedom of Information Requests, and in some cases, more so, Parliamentary Questions through Members of Parliament. The absence of data and the necessity to obtain information through parliament represents a marked difference between the data provided under the EUSS and the more recent Ukrainian scheme. The Working Group noted that higher numbers of individuals have been accepted under the Ukrainian scheme, and higher levels of data are available.

Comparative Case Study: Ukrainian Scheme

- 5.55 Neither the MoD nor the Home Office publish the level of data relating to ARAP applications that is routinely published in the context of Ukraine Schemes and other asylum or immigration routes. Whilst it is acknowledged that the Ukraine Schemes do not include applications for permanent residence, the Working Group considered it appropriate to compare the level of data published under these schemes with that available for the ARAP and ACRS schemes. This is because both sets of schemes came into fruition within a year of each other, and in the case of the Ukraine schemes, were operational in a very short period of time. The data available for settlement applications for generally has also been reviewed and this also shows a greater level of detail.¹¹²
- 5.56 For instance, the total Ukraine Schemes visa applications received is 302,000 and the total Ukraine Schemes visas issued has reached 235,300 as of 18 July 2023. From the published statistics updated on 20 July 2023, we can also see that there have been 181,400 arrivals of Ukraine Schemes visa holders since 17 July 2023. The Ukraine data page was last updated on 20th July 2023, and it expressly tells readers that the next update is due on 27 July 2023.¹¹³
- 5.57 There are some more detailed statistics in relation to the grants of ILR, but the quality and breadth of the data that is published is much lower than that published in relation to the Ukraine schemes. This is the case despite the number of ILR applications and grants being much lower than the grants of leave under the Ukraine Schemes. The Afghan data page was last updated on 25 May 2023 but contains “*the best available operational data, as of 31st March 2023*”. There is no reference to when the next update is due to be published. It is understood that the data pages of the Government’s website are usually updated in line with quarterly statistical updates. However, the Ukraine visa data page was last updated on 3 August 2023 and expressly states that it is due to be updated on 10 August 2023.
- 5.58 It is striking that whilst the MoD have referred to the total number of applications received leading up to and post-August 2021 to account for delays, the numbers involved with the Ukraine Schemes are higher, and have been processed within relatively short timescales. The Ukraine Schemes have

¹¹² HO National Statistics ‘How many people continue their stay in the UK or apply to stay permanently?’ (published 24 November 2022).

¹¹³ See Comparative Table.

been operating since approximately March 2022 and ARAP was opened in April 2021. ACRS was announced in August 2021 but save for Operation Pitting evacuations (later allocated as Pathway 1), the other Pathways were not formally launched until January 2022. Pathways 2 and 3 did not progress further until summer 2022 and the statistics show that there have only been 40 grants of ILR for Pathway 2 and 14 for Pathway 14.

Recommendation 16

- I. The Home Office, FCDO, and other relevant departments must publish better data on delays under the Afghan Resettlement Schemes, including
 1. waiting times for decisions
 2. waiting times for relocation following a positive decision;
 3. waiting times for internal reviews; and
- II. The Government include ARAP and ACRS within the Home Office service standards¹¹⁴ and report on processing times, such as with the Homes for Ukraine scheme.¹¹⁵

Case Management, Updates, and Decision letters

Caseworkers

5.59 An important feature of any administrative system involving individual applications, such as under ARAP, or referrals, as under the ACRS, is a point of contact. The Working Group, examining case management under both the ARAP and ACRS schemes noted that there was no avenue, whereby applicants or their representatives could contact or follow up on applications or referrals; and no assigned caseworker.

5.60 Similarly, there was concern amongst the Working Group that the only way to obtain information on the progress of a report was to submit a ‘contact form’, which did not provide sufficient space to provide additional information, nor

¹¹⁴ UKVI ‘Customer service standards’ (published 22 May 2023).

¹¹⁵ UKVI ‘Visa Processing times: applications outside the UK’ (updated 26 June 2023).

was the initial application different to an application seeking a review. The result of this system is that without legal representation, and the involvement of the Government's Legal Department to obtain information on the progress of their applications under the ARAP schemes, applicants were compelled to seek information through their local Members of Parliament. However, MPs may only make representations on behalf of constituents, therefore only applicants who already have family members resident in the UK are likely able to access MP representation.

Case Study

We were informed by a journalist who worked for Afghan national TV who applied under ACRS that:

“When I first applied [in June 2022], I received an acknowledgment and then did not hear anything. I had a reference number but did not hear anything after that until rejection. There was no point of contact in the acknowledgement email and therefore I had no way of contacting them for an update or change of circumstances.”¹¹⁶

Recommendation 17

- I. The Ministry of Defence, Home Office and FCDO must provide a direct means of communication for ARAP and ACRS principals and their representatives to provide and obtain updates and follow up on their cases.
- II. Principals under both schemes be assigned primary caseworkers.

Updates

Processing Times

5.61 In the current system, applicants are not provided any estimation of processing or resettlement time frames. This was noted by the Working Group as being a particularly destabilising feature of the scheme. The majority of applicants are resident in Afghanistan, or a third-party state, such as Iran or Pakistan. In any of these States, they are without a consistent source of income, and so basic essentials are by no means guaranteed: food; water; health services. When the

¹¹⁶ Information provided by an Afghan journalist in response to a list of questions sent out through an Afghan network.

administering departments provide no indication of processing times, or resettlement times, applicants are simply unable to properly plan their next steps, which often includes reliance on charitable third parties, who in turn are exposed to considerable risk. Such a situation is in many cases untenable and ought not to be further exacerbated by what appear to us entirely reasonable features of a properly functioning system of administration. We were informed by a Chevening Scholar who applied under pathway 3 of ACRS that:

*“the application was at all not easy and accessible. It was divided into a number of phases each of which took ages to complete. There were no specific deadlines for any stage of the process and we had to wait for ages for the next stage”.*¹¹⁷

Submitting Additional evidence

5.62 For the purposes of submitting additional evidence, and the provision and communications under this heading, emphasis was placed on the fact that applicants’ communications were received in a single inbox, and despite multiple enquiries, very few acknowledgments or responses were forthcoming. As with data collection, it was noted that the primary form of communication with Government occurred through litigation, or informal networks. This is clearly an unsatisfactory system of communication within an administrative system of government.

Recommendation 18

- I. The Ministry of Defence and Home Office must provide clarity on what constitutes ‘priority’ for the purposes of ARAP applications, particularly given the outstanding 141,000 applications;
- II. Correspondence in relation to the prioritisation/expedition process for ARAP / ACRS should be dealt with on a priority basis;
- III. The Ministry of Defence, Home Office and FCDO must ensure that applicants are given clear timelines regarding their decisions, and are updated if there are any changes to this timeline;

¹¹⁷ Chevening Scholar who applied under ACRS Pathway 3.

- IV. Ministry of Defence, Home Office and FCDO should also set out next steps, regular procedures, and acknowledge that there are problems, such as delays, in the system.

Decision letters

5.63 The Working Group reported that in their current form, decision letters do not specify which sub-criteria applicants fail to meet under ARAP or the ACRS. For applicants, the inclusion of this information will be necessary should they wish to appeal or request a review. The Working Group highlighted that currently decision letters are provided in local languages, such as Dari and Pashto- which JUSTICE acknowledges as entirely proper. However, we note on this point, that application and referral forms are not provided in local languages, rendering the process difficult, or simply inaccessible for those whose first language is not English.

Recommendation 19

- I. Any ARAP and ACRS forms should be provided in local languages, such as Dari and Pashto;
- II. The Ministry of Defence, Home Office and FCDO should ensure that decisions are accurately and fully translated into such local languages.¹¹⁸

Reviews under ARAP and the ACRS

Recommendation 20

- I. The review procedure for Additional Family Member applicants should be clarified and made consistent between different Sponsoring Units and departments;
- II. The review procedure, including panel members and process for ARAP must be clearly published;

¹¹⁸ The Working Group reported very poor and unintelligible reasons when translated.

- III. Prior reasons and a right to make representations must be provided to make the review process useful; and
- IV. Full detailed reasons for administrative decisions, including refusals, must be given, which can be clearly understood by the applicants.

Unsafe journey policy, delays on fee waivers, and biometric processing

Biometric Process

- 5.64 Prior to the implementation of the guidance on Biometrics, and the judgment in *R (KA)*,¹¹⁹ under ARAP, the Government provided that family members of Afghans already settled in the UK would be expected to meet the eligibility requirements of under one of the two schemes, which included paying fees and charges relevant to the schemes, and providing biometrics. At the time in which the guidance was drafted, the government acknowledged that there was “no option to give biometrics in Afghanistan” and “the government advised people in Afghanistan to not make applications and pay application fees...as they will not be considered until biometrics are provided.”¹²⁰
- 5.65 As part of the litigation in *R (KA)*, and with reference to the passage above, the Home Secretary accepted that the Government’s policy statement, set out above, did not reflect the discretionary power, which could waive the requirement for biometric data on applicants.¹²¹
- 5.66 As a result of the litigation, the Government amended its resettlement to “enable those...unable to travel safely...to enrol biometrics [at a VAC] to request alternative arrangements in exceptional circumstances.

¹¹⁹ *R (KA and 6 others) v Secretary of State for the Home Department, Secretary of State for Foreign, Commonwealth and Development Affairs, and Secretary of State for Defence* [2022] EWHC 2473 (Admin).

¹²⁰ HO and UKVI ‘Afghanistan resettlement and immigration policy statement’ (see n.59 above).

¹²¹ The Immigration (Biometric Registration) Regulations 2008, reg 5.

5.67 The arrangements provided for by the government included “*deferral or excusing of the requirement to enrol biometrics*”.¹²²

5.68 The updated guidance, published almost a year later, incorporated the discretionary powers afforded to decision makers, to waive the requirement for biometrics, under ‘exceptional circumstances’ and referenced further guidance. However, as with the role of ministers in decisions of eligibility, the relevant Biometric information guidance, to which the passage above refers is extremely wide, and provides that Ministerial approval is required:

- Where a senior official considers an individual who is applying for a visa and / or a BID to come to the UK should be excused from the requirement to enroll their biometrics as part of their application for reasons other than medical grounds or their role as a senior governmental official, such as:
- there are compassionate circumstances that are so compelling as to make them exceptional and there are no operational alternatives which that warrant excusing or deferring an individual from having to attend a Visa Application Centre (“VAC”) to enroll their biometrics before they travel to the UK;
- the individual’s circumstances or status warrants them from being excused from having to enrol their biometrics on the basis it is in the interest to the UK’s economy or reputation;
- they must refer the matter to Ministers to approve the proposal to waive the requirement to attend a VAC to enroll their biometrics or defer the requirement for an individual to enroll their biometrics for a BID’.

Given the change in policy, the Working Group made the following Recommendations:

Recommendation 21

- I. The Ministry of Defence, Home Office, FCDO and other relevant government departments should return to the standard of proof of balance

¹²² UKVI ‘*Biometric information: caseworker guidance*’ (updated 23 June 2023), enrolment.

of probabilities for satisfying decision makers of nationality and identity of an applicant.

- II. The Home Office must publish a service standard for processing requests to waive or defer the enrolment of biometrics, as well as the current timescales for doing so.
- III. The Home Office should clarify the specific process for referrals under ACRS and applicants under ARAP to request a waiver of biometrics or predetermination, where they are not making applications to join a sponsor who is a family member in the UK.
- IV. The Home Office must create a more efficient process for making the predetermination and biometric waiver requests, such as through an online form that collects the GWF reference number, rather than requiring paid calls to the UKVI Contact Centre.
- V. The Home Office should consider whether Ministerial approval is needed for excusing an applicant from biometrics, or whether this adds unnecessary delay and red tape in progressing the application.
- VI. The Home Office should consider a lower and country specific threshold for unsafe journeys and biometric deferral/waiver, in the context of Afghanistan, where the Government's own country policy and information notes record the risks from the Taliban and other insurgents to women and the majority of applicant groups seeking relocation under ACRS and ARAP.¹²³ This would enable groups to benefit from the Government's policy and practice even if evidential difficulties in proving the same are encountered.
- VII. The Home Office should build in further discretion and flexibility into the biometrics policy where it is clear there are likely to be otherwise serious delays and/or significant risk of travel.
- VIII. Any further policy changes should be implemented swiftly to avoid unnecessarily restrictive practices being adopted and maintained.

¹²³ The purpose of the policy could be otherwise defeated where Afghans who are at risk from the Taliban, or other insurgents, are prevented from making applications under which they could qualify for relocation. This would enable groups to benefit from the Government's policy and practice even if evidential difficulties in proving the same are encountered.

Unsafe Journey Policy

Late Publication

- 5.69 On 3 May 2023, the Home Office published version 1.0 of the ‘Unable to travel to a Visa Application Centre to enroll biometrics (overseas applications)’ Guidance. The guidance sets out the process for individuals who claim that travelling to a Visa Application Centre (“VAC”), to enroll their biometrics, i.e., their fingerprints and a photograph of their face, is unsafe.
- 5.70 Given that the UK was present in Afghanistan for two decades, ultimately withdrawing through Operation Pitting in the Summer of 2021, the Working Group expressed surprise that this guidance was only published on 3 May 2023. The absence of a VAC has created extreme difficulty for Afghans seeking to relocate, and in the preceding two-year period, the government has not, in the view of the Working Group, taken steps to acknowledge, in a consistent and transparent manner those difficulties.
- 5.71 We understand that certain responses to biometric waiver requests were placed on hold pending the publication of the Unsafe Journey Policy Guidance. For example, the Immigration Law Practitioners’ Association was informed on 8 June 2023 that the Home Office’s Family Reunion Team had around 300 separate requests for biometric waivers to decide, as they had placed a hold on making decisions until the guidance was published.
- 5.72 Furthermore, applicants who made requests prior to the publication of the guidance were not able to provide evidence to address the criteria in the guidance, because of the lack of certainty and accessibility of the policy and what was required of them. Additional information and evidence may now need to be sought from these applicants. Therefore, the late publication of the policy created bureaucratic/administrative inefficiency and delay for vulnerable applicants.

Requirements

Standard of Proof

5.73 Under the guidance, an applicant must indicate whether they want a decision maker to:

- predetermine their application;
- excuse them from the requirement to attend a VAC to enrol their biometrics.

5.74 They must provide evidence that “their circumstances are so compelling as to make them exceptional and to refuse’ them ‘would be a disproportionate barrier to them completing an application to come to the UK”.¹²⁴

An applicant must meet the following four criteria:

- I. Individuals must satisfy a decision maker about their identity to a reasonable degree of certainty before coming to the UK.*
- II. They must provide evidence they need to make an urgent journey to a VAC that would be particularly unsafe for them based on the current situation within the area they are located and along the route where they would need to travel to reach a VAC to enrol their biometrics, and they cannot delay their journey until later or use alternative routes.*
- III. They must demonstrate their circumstances are so compelling as to make them exceptional. which go beyond simply joining relatives who are living in the UK, for example, their UK based sponsor requires full-time care and there are no other viable alternatives to meet the sponsor’s or their young children’s needs.*
- IV. If their biometrics, they need to explain why they cannot attend any VAC but are able to travel to the UK.’*

5.75 There is a key difference in the standard of proof, depending on whether an applicant seeks a predetermination of their application before enrolling or a biometric waiver:

¹²⁴ UK Visas and Immigration, [Unable to travel to a VAC to enrol biometrics](#) (overseas applications) (accessible), (updated June 2023).

- 5.76 For predetermination, the standard of proof for identity and nationality is on a balance of probabilities: This can usually be achieved by the individuals providing documentary evidence, which can be high quality scanned images of documents, that can be authenticated against independent document image archives. Identity checks are then made at the VAC, so that decision makers have a reasonable degree of certainty about their identity.
- 5.77 To excuse them from the requirement to attend a VAC to enrol their biometrics, applicants “must, in most circumstances, satisfy decision makers to a reasonable degree of certainty about their identity and nationality, which is a higher standard than for predetermining applications”,¹²⁵ which in most circumstances means providing a valid travel document.
- 5.78 It remains unclear how this new standard of proof will be interpreted and applied by the Home Office, Tribunals and Courts, as this is not a standard of proof which currently applies in this area of the law. The introduction of this new standard of proof creates legal uncertainty and makes the task of proving identity and nationality difficult for vulnerable applicants seeking to explain why they cannot take unsafe journeys.

Extremely high thresholds

- 5.79 The threshold set in guidance for an ‘unsafe journey’ and for ‘compelling circumstances’ is very high. For example, the guidance requires applicants to ordinarily provide objective evidence that they:
- Face dangers beyond the current situation that exist in area where they are located and along the route where they would need to travel to reach a VAC to enrol their biometrics and there are no alternative routes they could use
 - personally face an immediate and real risk of significant injury or harm because of their personal circumstances, if they attempt to travel to any VAC
 - have an overriding need to travel urgently and cannot delay their journey
 - are in an area of ongoing conflict or the area has become unsafe following a catastrophic natural disaster or where the way of travelling to any VAC

¹²⁵ *ibid*, at 6.2.

is through an area of conflict and there are no alternative options available to them; and

- needed to travel to an unsafe location, when they could have safely travelled to another place to provide their biometric information’

5.80 Additionally, applicants must prove that ‘they have demonstrable circumstances that are so compelling they are exceptional’.¹²⁶ The Guidance specifically states, “in most circumstances, decision makers should not regard individuals circumstances as being compelling unless they are applying to join family who are sponsoring them to join them in the UK”.¹²⁷ This would mean that the vast majority of main applicants under the ACRS and ARAP would not be able to meet this requirement, as they would not be making an application as a joining family member.

Process

5.81 Presently, the process requires an applicant or their representative, if they have one, to call the UKVI Contact Centre to make the request for predetermination or a waiver. We understand that the Contact Centre only has staff who speak Arabic, Cantonese, French, Hindi, Mandarin, Russian, and Spanish, between limited periods of time. Moreover, calls cost 69 pence per minute on top of standard network charges, making it unaffordable for many applicants.

5.82 While we understand the reason for this is to collect the Global Web Reference number, to then route the request to the relevant decision-making team for their consideration, this process is an insufficiently accessible process.

Recommendation 22

- I. The Government should return to the standard of proof of balance of probabilities for satisfying decision makers of nationality and identity of an applicant;
- II. The Home Office should create a more efficient process for making the predetermination and biometric waiver requests, such as through an

¹²⁶ *ibid*, at 8.

¹²⁷ *ibid*, at 8.1.

online form that collects the GWF reference number, rather than requiring paid calls to the UKVI Contact Centre.

- III. The Government should consider a lower and country specific threshold for unsafe journeys, in the context of Afghanistan, where the governments own country policy and information notes record the risks from the Taliban and other insurgents to women, and the majority of applicant groups seeking relocation under ACRS and ARAP. This would enable groups to benefit from the Government’s policy and practice even if evidential difficulties in proving the same are encountered.
- IV. The Government should build-in further discretion and flexibility into the guidance where it is clear there are likely to be otherwise serious delays and/or significant risk of travel.

Fee Waivers

- 5.83** The below addresses the difficulties experienced by Afghan applicants who have submitted applications for limited leave that require payment of a fee. These may include joining family members of ACRS and/or ARAP main applicants.
- 5.84** On 16 June 2022, the Home Office finally published Affordability fee waiver: overseas Human Rights-based applications (Article 8) Guidance, following *R (on the application of Dzineku-Liggison and Others) v Secretary of State for the Home Department (Fee Waiver Guidance v3 unlawful)* [2020] UKUT 00222 (IAC).
- 5.85** In deciding whether to grant a fee waiver in certain Article 8 ECHR (Right to respect for private and family life) human rights applications, the primary consideration (per page 5 of the guidance) is affordability:
- *‘The primary consideration on whether someone is eligible for a fee waiver is an affordability test to assess whether the applicant and sponsor has credibly demonstrated that they cannot afford the fee. This applies when the applicant and sponsor do not have sufficient funds at their disposal, after meeting their essential living needs, to pay the fee.*
 - *Fee waivers should be granted if the applicant and sponsor have credibly demonstrated that they meet the affordability test.’*

5.86 The Guidance further states, ‘no specific service standards apply to the assessment of whether the applicant qualifies for a fee waiver.’ However, caseworkers must make reasonable efforts to decide such requests promptly, especially those involving a child or an applicant who is disabled or otherwise in vulnerable circumstances.

Recommendation 23

- I. The Government should publish a service standard for processing requests for Additional Family Members or for family reunion and applications for Leave Outside the Immigration Rules to waive fees, as well as the current timescales for doing so.
- II. The Government must ensure that such applications are processed within reasonable timescales.

Difficulties faced post Eligibility decision

5.87 This part of the report examines the difficulties encountered by applicants stuck between a grant of eligibility to relocate to the UK under ARAP, and the issuing of visas- subsequently travelling to third countries.

5.88 There are numerous barriers to relocation, which include Home-Office delays issuing visas, and the delay and/or suspension of flights transferring people to the UK from third countries.

5.89 These barriers are particularly acute following the earlier suspension of flights by the UK Government from third countries, such as Pakistan (as announced in March 2023 but appearing to date back to December 2022).¹²⁸ In addition, the UK ceased granting visas to eligible applicants pending the identification

¹²⁸ Independent, *Abandoned by the country they served: Hundreds of Afghans eligible for UK stranded in Pakistan, 01 April 2023*; Arab News, *Over 1,000 Afghans trapped in Pakistan awaiting UK travel, report finds (updated 3 April 2023)*; We note that when relocation becomes possible, the MoD may use commercial flights to bring individuals or family groups to the UK.

of “suitable” accommodation in the UK.¹²⁹ This is because, as of May 2023, the Secretary for the Home Department asserted that hotel accommodation in the UK is now considered ‘unsuitable’ for eligible Afghans arriving in the UK.¹³⁰ However, eligible Afghans continue to reside in hotel accommodations provided by the British High Commission and British Embassies in third countries.

- 5.90** Although long term placement in hotel accommodation is not a recommendation, placement in hotels on a temporary basis does allow individuals to seek out employment, start school, and access medical treatment through the NHS. In contrast, those waiting in third-country hotels are prevented from doing so; they also face additional hurdles, such as visa issues in those third countries.
- 5.91** Many ARAP-eligible Afghans in hotels in third-countries, such as Pakistan and Iran, have reported feeling unable to leave their accommodation. This is because their visas have long expired and cannot be renewed, leaving them at risk of deportation. This is a particular issue in Pakistan, where it has been reported that police are focusing attention on Afghans without valid visas to remain in the country. Effectively, individuals including children are trapped in hotel hotels without access to formal education or employment opportunities,¹³¹ which members of the Working Group consider to be contributing to declining mental health. For example, individuals in Pakistan have reported suicidal ideations, anxiety and depression.
- 5.92** In addition, children in third country accommodation do not receive adequate provision of education. In places where voluntary tutors have been sourced by the ARAP population in hotels, those tutors have reported a lack of support and basic resources, for example laptops and textbooks.
- 5.93** Alongside the concerns raised by the Working Group above, the cohort of ARAP-eligible individuals trying to leave Afghanistan face severe economic

¹²⁹ Home Office, Blog, ‘UK government support for resettled Afghans in bridging accommodation factsheet – August 2023’, (24 April 2023). We note that visa issuing may have resumed, although formal confirmation to that effect would be welcomed.

¹³⁰ UK Parliament, ‘Refugees: Afghanistan Question for Home Office’ (tabled 22 May 2023).

¹³¹ UK Parliament ‘Afghanistan: Refugees Question for Ministry of Defence’ (tabled 15 May 2023).

challenges due to the current expenses of travel to third countries. For example, entry visas for Pakistan are reported to start at \$1,000 per person.¹³² Individuals have also reported problems arising from a lack of valid documentation to cross borders. We understand that this is a particularly challenging issue for children who have been born since the fall of Afghanistan, due in part to the securing necessary documentation. In addition, many family members do not have passports; and applicants have reported fears of presenting to the passport office under a Taliban Government, because they are in hiding.

5.94 The multitude of issues identified above are compounded by the ongoing delays in the transfer of eligible individuals to the UK, the lack of a timeline for the acquisition of accommodation, and the failure to resume transfers.¹³³

Recommendation 24

For eligible Afghans waiting in third countries, the Government must:

- I. Cease reliance on a requirement for “suitable” or non-hotel accommodation, or self-funded accommodation, in the UK prior to relocation;
- II. The Government should impose a maximum waiting time in third countries before transfer to the UK (we would suggest, 6 months as comparable to waiting times for asylum claims).¹³⁴ To that end, it would be necessary to resume relocation flights from third countries such as Pakistan.

¹³² RadioFreeEurope, *Afghans Say Black Market For Pakistani Visas Thriving*, June 14, 2022.

¹³³ UK Parliament ‘Afghanistan: Refugees Question for Ministry of Defence’ (see n.28).

¹³⁴ UKVI, *Claim Asylum in the UK*.

VI. RECOMMENDATIONS LIST

Afghan Relocation and Assistance Policy

Recommendation 1

- I. The ARAP criteria should reflect the spirit in which the scheme and framework were established, to provide a safe, efficient and rapid means, whereby Afghans with a link to the British mission through their work can relocate to the UK.
- II. This means that the Ministry of Defence and Home Office should generously interpret and apply the ARAP criteria, in recognition of the breadth of discretion available to the decision maker and to give effect to the intention of the ARAP policy.
- III. The scope and material criteria for eligibility under Categories 1-4 must be set out clearly, in a centralised published policy, which includes practical guidance as to the threshold and type of evidence required of principal applicants, and guidance regarding the factors and features under consideration for the determination of the following:
 - a. Whether the UK operation would have been materially less efficient or materially less successful if a role or roles of that nature had not been performed by the applicant;
 - b. Whether the applicant's role exposed them to being publicly recognised as having performed that role and, as a result of that public recognition, their safety is now at risk;
 - c. Whether the applicant has a high and imminent risk of threat to life;
 - d. Whether the applicant was at any time on or after 1 October 2001 directly employed in Afghanistan by a UK Government department, including what roles of employees who were directly employed by a UK Government department in Afghanistan are considered as being outside the remit of Category 2;

- e. Whether the applicant worked in Afghanistan alongside a UK Government department, in partnership with or closely supporting and assisting that department;
- f. Whether the applicant made a substantive and positive contribution to the UK's military objectives or national security objectives (which includes counter-terrorism, counter-narcotics and anti-corruption objectives) with respect to Afghanistan; and
- g. Whether the applicant is or was at elevated risk of targeted attacks or is or was at high risk of death or serious injury.

Recommendation 2

- I. The Ministry of Defence and Home Office must improve processing times for principal applicants and their families, for applications under all ARAP categories;
- II. This requires that the Ministry of Defence honour its commitment to issue all outstanding decisions, as soon as possible and no later than the end of August 2023;
- III. In addition, the Ministry of Defence should implement a three-month maximum decision window for any new straightforward ARAP applications (of principal applicants and their family members, under all categories) made from 1 September 2023;
- IV. The administering department should write to the applicant with clear reasons as to why their application has been delayed, if the three-month processing window cannot be met;

Recommendation 3

- I. The Ministry of Defence, and where applicable Home Office, should set out with greater specificity and detail, the grounds on which, or reasons why an individual's application has been refused, using clear and precise language, to enable applicants to understand the basis of the decisions and consider whether to seek a review.
- II. Decision-making notes and reasons for refusals should be accessible to applicants, with the provision of reasons as and where there are redactions, and be served with negative decisions, in particular for decisions about

family reunification and on internal recommendations from other government departments about Category 4 (“Special cases”).

- III. The Ministry of Defence, and where applicable, Home Office, should provide internal and external guidance on how a case designated under another Category 4 may be re-categorised and thus prioritised under Category 1.
- IV. The Ministry of Defence and Home Office provide greater transparency on the process of decision-making for Category 4 panels, as well as the process and content of evidence considered by those panels.

Recommendation 4

- I. The Ministry of Defence and Home Office establish and publish clear lines of responsibility for administrative processes;
- II. The Ministry of Defence and Home Office should ensure there is consistent interpretation of the criteria over the duration of the ARAP scheme;
- III. The Ministry of Defence and Home Office should ensure decision makers have a clear understanding of the breadth of the application of the criteria; and
- IV. The Ministry of Defence and Home Office should monitor and evaluate its decision-making to ensure prompt and consistent outcomes.

Recommendation 5

The Ministry of Defence and Home Office should publish clear guidance on:

- I. How cases are prioritised under ARAP Categories 1, 2, and 4;
- II. Under what conditions cases are expedited;

In addition:

- III. Cases that have been subject to expedited processing, and have resulted in a positive outcome for applicants, be followed by an expedited process of relocation and resettlement.

Recommendation 6

- I. The Ministry of Defence should recognise that persons who are publicly recognised as having performed a role in support of the UK mission are at risk, merely because they have done so, and therefore, that risk should be evaluated against the accepted background evidence and on a balance of probabilities / real risk standard. This should go beyond anti-corruption, counterterrorism and counter narcotics (listed for Category 4), to include other objectives, such as stabilisation, development and upholding the Rule of Law.
- II. In evaluating this risk, the Ministry of Defence should liaise with other government departments, such as the FCDO, and should undertake proactively to identify the nature and degree of that risk. Such a duty of inquiry is consistent with the overall aims of the scheme, notwithstanding that it is an application-based process.

Recommendation 7

- I. The Ministry of Defence and Home Office should review the scope and process of management and assessment under Category 4 ('special cases') applications, including:
 - a. The criteria and scope of eligibility under Category 4 under ARAP
 - b. The threshold and type of evidence required of principal applicants; and
 - c. Greater transparency on the process of decision-making panels, and the process/content of evidence

Recommendation 8

- I. Family members should be considered at the same time as the main applicant to avoid delays, and to enable families to travel together as a family unit;
- II. The relevant Government department should consider the resettlement of other family members, and granting family members outside of the immigration rules where necessary, to recognise the structure of Afghan families;

- III. The relevant Government departments should make provision for applicants to update their dependents list prior to decisions being made and after having been moved to the second stage and granted resettlement under ARAP; and after having been moved to the second stage and granted resettlement under ARAP.

Recommendation 9

- I. “Minded to refuse” notifications should be served by the Government, to put applicants on notice that the relevant authority is thinking about refusing an application under ARAP.
- II. These notifications must be sufficiently detailed so that applicants understand the rationale behind potential refusals and are aware of how to submit further evidence and what evidence to submit in order to address the concerns raised; and
- III. Applicants and their representatives be given a reasonable period of time to submit further evidence.

Recommendation 10

For the purposes of calculating the number of individuals permitted to resettle under the ACRS, the limit on the number of individuals who can qualify for resettlement should be revisited, and:

- I. The Government should recognise that the ACRS was intended to be forward looking and not retrospectively counted. Hence the numbers included in ACRS Pathway 1 (of individuals evacuated to the UK under Operation Pitting) should be excluded from the 20,000 cap; and
- II. The cap should apply to principal applicants and not to their dependents.

Furthermore, that:

- III. The Government should clarify the way in which it calculates and its justification 'for each pathway or cohort' cap under the ACRS.

Afghan Citizens Relocation Scheme (“ACRS”)

Recommendation 11

- I. The Home Office should devise and publish a 3-year plan for relocating a minimum of 20,000 principal applicants (not evacuated under Operation Pitting) and rapidly announce the eligibility criteria for the remaining cohorts whose lives remain at risk or who face poverty and hardship
- II. The Home Office must publish guidelines before the processing year begins under ACRS Pathway 3 to explain: (a) when the processing period begins, for example ‘Year 2 starts on x day in x month’; (b) who is eligible under Pathway 3 in that given year; and (c) how many places are left under Pathway 3;
- III. As part of efforts to improve the process, and on the basis that the processing periods under ACRS Pathway 3 are annual, the Home Office and FCDO where relevant should publish the pathway eligibility and prioritisation criteria in advance of the next annual ACRS Pathway 3 processing period by at least 14 weeks, and ideally at the closing of the previous ACRS Pathway 3 processing period.

Recommendation 12

- I. The Home Office should publish the internal process or policy by which referral partners contribute to, or are otherwise involved in, the decision-making process for Pathway 3 of the ACRS;
- II. The Home Office, and where relevant the FCDO should clarify how evidence can be submitted for a non-applications-based process, given that applicants are only expressing an interest;
- III. The Home Office, and where relevant the FCDO, should publish guidance to address the lack of clarity regarding how the scheme functions, including the various relevant criteria, such as a determination as to ‘priority’ under the scheme (excluding those relocated during Operation Pitting);
- IV. The Home Office, and where relevant the FCDO should clarify the criteria and/or method of assessment by which those deemed eligible under the ACRS are determined as being of ‘priority’.

- V. The Government should provide clear guidance on:
 - a. How cases are prioritised; and
 - b. Under what conditions cases are expedited.
- VI. Cases that have been subject to expedited processing, and have resulted in a positive outcome for applicants, must be followed by either an expedited process of resettlement or clarification on the extent and purpose of expedited processing; and
- VII. The Home Office, and where relevant the FCDO should provide applicants with the opportunity to submit evidence regarding “exceptionally compelling circumstances”, which is a basis on which the FCDO stated it was prioritising expressions of interest under Year 1 of ACRS Pathway 3, or any new criteria used for prioritisation.

Recommendation 13

- I. The Home Office, and where relevant the FCDO, should provide all Pathway 3 decisions within three months of closure of the expression of interest processing period and have target of relocation to the UK within three months of a decision being made.

Recommendation 14

- I. The Home Office, alongside referral partners, such as the FCDO, must clarify the process by which applicants under the ACRS can secure family reunification.
- II. The Home Office, as part of clarifying the process, should harmonise its definition of family across the government Afghan settlement schemes. This may include expanding the definition of ‘family’ beyond the nuclear family, in a manner which is more reflective of Afghan family units.

Recommendation 15

- I. The Government must establish a structured process in relation to interdepartmental communication, with greater clarity of application criteria

across relevant government departments, including MoD, FCDO and Home Office.

Recommendation 16

- I. The Home Office, FCDO, and other relevant departments must publish better data on delays under the Afghan Resettlement Schemes, including:
 - a. waiting times for decisions;
 - b. waiting times for relocation following a positive decision;
 - c. waiting times for internal reviews; and
- II. The Government include ARAP and ACRS within the Home Office service standards¹³⁵ and report on processing times, such as with the Homes for Ukraine scheme.¹³⁶

Communication

Recommendation 17

- I. The Ministry of Defence, Home Office and FCDO must provide a direct means of communication for ARAP and ACRS principals and their representatives to provide and obtain updates and follow up on their cases.
- II. Principals under both schemes be assigned primary caseworkers.

Recommendation 18

- I. The Ministry of Defence and Home Office must provide clarity on what constitutes ‘priority’ for the purposes of ARAP applications, particularly given the outstanding 141,000 applications;
- II. Correspondence in relation to the prioritisation/expedition process for ARAP / ACRS should be dealt with on a priority basis;

¹³⁵ UKVI ‘Customer service standards’ (published 22 May 2023).

¹³⁶ UKVI ‘Visa Processing times: applications outside the UK’ (updated 26 June 2023).

- III. The Ministry of Defence, Home Office and FCDO must ensure that applicants are given clear timelines, including estimates, regarding their decisions, and are updated if there are any changes to this timeline;
- IV. Ministry of Defence, Home Office and FCDO should also set out next steps, regular procedures, and acknowledge that there are problems, such as delays, in the system.

Administration

Recommendation 19

- I. Any ARAP and ACRS forms should be provided in local languages, such as Dari and Pashto;
- II. The Ministry of Defence, Home Office and FCDO should ensure that decisions are accurately and fully translated into such local languages.¹³⁷

Recommendation 20

- I. The review procedure for Additional Family Member applicants should be clarified and made consistent between different Sponsoring Units and departments;
- II. The review procedure, including panel members and process for ARAP must be clearly published;
- III. Prior reasons and a right to make representations must be provided to make the review process useful; and
- IV. Full detailed reasons for administrative decisions, including refusals, must be given, which can be clearly understood by the applicants.

Recommendation 21

- I. The Ministry of Defence, Home Office, FCDO and other relevant government departments should return to the standard of proof of balance of

¹³⁷ The Working Group reported very poor and unintelligible reasons when translated.

probabilities for satisfying decision makers of nationality and identity of an applicant.

- II. The Home Office must publish a service standard for processing requests to waive or defer the enrolment of biometrics, as well as the current timescales for doing so.
- III. The Home Office should clarify the specific process for referrals under ACRS and applicants under ARAP to request a waiver of biometrics or predetermination, where they are not making applications to join a sponsor who is a family member in the UK.
- IV. The Home Office must create a more efficient process for making the predetermination and biometric waiver requests, such as through an online form that collects the GWF reference number, rather than requiring paid calls to the UKVI Contact Centre.
- V. The Home Office should consider whether Ministerial approval is needed for excusing an applicant from biometrics, or whether this adds unnecessary delay and red tape in progressing the application.
- VI. The Home Office should consider a lower and country specific threshold for unsafe journeys and biometric deferral/waiver, in the context of Afghanistan, where the Government's own country policy and information notes record the risks from the Taliban and other insurgents to women and the majority of applicant groups seeking relocation under ACRS and ARAP.¹³⁸ This would enable groups to benefit from the Government's policy and practice even if evidential difficulties in proving the same are encountered.
- VII. The Home Office should build in further discretion and flexibility into the biometrics policy where it is clear there are likely to be otherwise serious delays and/or significant risk of travel.
- VIII. Any further policy changes should be implemented swiftly to avoid unnecessarily restrictive practices being adopted and maintained.

¹³⁸ The purpose of the policy could be otherwise defeated where Afghans who are at risk from the Taliban, or other insurgents, are prevented from making applications under which they could qualify for relocation. This would enable groups to benefit from the Government's policy and practice even if evidential difficulties in proving the same are encountered.

Recommendation 22

- I. The Government should return to the standard of proof of balance of probabilities for satisfying decision makers of nationality and identity of an applicant;
- II. The Home Office should create a more efficient process for making the predetermination and biometric waiver requests, such as through an online form that collects the GWF reference number, rather than requiring paid calls to the UKVI Contact Centre.
- III. The Government should consider a lower and country specific threshold for unsafe journeys, in the context of Afghanistan, where the governments own country policy and information notes record the risks from the Taliban and other insurgents to women, and the majority of applicant groups seeking relocation under ACRS and ARAP. This would enable groups to benefit from the Government’s policy and practice even if evidential difficulties in proving the same are encountered.
- IV. The Government should build-in further discretion and flexibility into the guidance where it is clear there are likely to be otherwise serious delays and/or significant risk of travel.

Recommendation 23

- I. The Government should publish a service standard for processing requests for Additional Family Members or for family reunion and applications for Leave Outside the Immigration Rules to waive fees, as well as the current timescales for doing so.¹³⁹
- II. The Government must ensure that such applications are processed within reasonable timescales.

Recommendation 24

For eligible Afghans waiting in third countries, the government must:

¹³⁹ See above, which applies to the fee waiver applications as well.

- I. Cease reliance on a requirement for “suitable” or non-hotel accommodation, or self-funded accommodation, in the UK prior to relocation;
- II. The Government should impose a maximum waiting time in third countries before transfer to the UK (we would suggest, 6 months as comparable to waiting times for asylum claims).¹⁴⁰ To that end, it would be necessary to resume relocation flights from third countries such as Pakistan.

¹⁴⁰ UKVI, *Claim Asylum in the Uk* (see n.133).

VII. CONCLUSION

- 7.1 When JUSTICE convened this Working Group, we intended to consider only ARAP, as part of a comparative review, culminating in a final overarching report of the EU Settlement Scheme, and the Windrush Compensation Scheme. However, in consultation with academic experts, policy leads, and lawyers, it became quickly apparent it was necessary to consider the ACRS in addition to ARAP. In addition, that given the severity of harm and suffering endured by Afghans (who assisted the British) in the two-year period since the UK withdrew from Afghanistan, it was imperative to produce an interim report, specifically on the two resettlement schemes.
- 7.2 The focus of the Working Group has remained consistent with JUSTICE's aims, to strengthen the justice system, and focus on fair, accessible, efficient legal processes, and the Rule of Law. For those reasons, whilst we undoubtedly recognised the range of issues, which fell within the range of issues underlying Afghan Resettlement policy in the UK, such as accommodation and family reunification, we sought to engage forensically, and critically with the legal and administrative processes, which are intended to facilitate that resettlement.
- 7.3 The inescapable conclusion of the Working Group has been that the Afghan Resettlement Schemes are in many respects manifestly lacking in their application and operation. This is in part attributable to the rapid pace at which the schemes were implemented, and to the purportedly unexpected numbers of applicants and referees to the schemes. However, whilst JUSTICE considers it entirely proper to recognise the efforts the Government, in-light of the challenges raised by the circumstances of the UK's withdrawal, that recognition in our view may only take Government departments, such as the Home Office, MoD and FCDO so far. Indeed, two years subsequent to Operation Pitting, there are many aspects of the schemes that should have already been identified and resolved: delays; the production of clear published guidance; regularly published statistics; and transparent decision-making, for example.
- 7.4 It is our hope that if implemented, the 24 recommendations in this report will assist the Government in improving the process of administration for applicants and referees, and will ultimately benefit the Afghans, who assisted the British in their efforts to build a viable Afghan State.

- 7.5 As has been reiterated in our report, a properly functioning administrative system must be clear, accessible, intelligible, and predictable.¹⁴¹ The Afghan Resettlement Schemes do not, in our conclusion, meet these critical standards with sufficient consistency. It is in light of these inadequacies, that the majority of recommendations focus on the clarity, scope and consistency of eligibility and suitability decision-making under ARAP and the ACRS, and propose more robust, accessible processes for applicants and referrals.
- 7.6 Poor communication has been a consistent deficiency for applicants progressing through the schemes. Afghans, who assisted the British, find themselves constantly on the run, in hiding, and without sufficient resources. This harsh reality is manifestly worse for the most vulnerable: in particular women, elderly; children; and the LGBTQIA+ community, and therefore, updates on applications and referrals, direct means of communication, the assignment of primary caseworkers, expedited correspondence and clear timelines are essential. Not only so that applicants and referrals may track their progress through the schemes, but so they plan their next steps for survival.
- 7.7 Given the issues identified throughout the schemes, with communication, transparency and clarity, it is unsurprising that reviews, and to a lesser extent, appeals, were also the subject of consideration, and recommendation by the Working Group. We recognise that ARAP includes an internal right of review, and we have obtained information as to the function and constitution of that review body. Notwithstanding our gratitude to the MoD for its assistance in this regard, it remains the case that such information is not publicly available, and as the Working Group have proposed throughout, it is important that administrative systems are accessible and transparent. This becomes all the more pertinent in the context of the ACRS, for which there is no opportunity for individuals to request an internal review of an adverse decision. In our view, it is entirely inconsistent with a properly functioning administrative system.

¹⁴¹ Council of Europe, European Commission for Democracy Through Law (Venice Commission), Rule of Law Checklist, see ‘Benchmarks’ pp 17-56.

- 7.8 During the period in which the Working Group sat, the Home Office released its *Unsafe Journey's Policy*.¹⁴² In response, the Working Group established a specific sub-group, to review and address the policy, in addition to the requirement for biometrics, and fee waivers. On the whole, we found the Government's approach to these requirements to be complex. As a result, we have made recommendations which sought to clarify processing times, publication of guidance on application processing, consideration of ministerial approval, and notably, a call for reconsideration of a lower, country and context specific threshold for biometric deferral or waiver.
- 7.9 The overarching aim of the *Lessons Learning* project, of which the Afghan Resettlement Scheme report and Working Group are a part, is to ensure that future schemes, either for compensation, resettlement, or otherwise, are constructed and implemented fairly, expeditiously and with clarity. Implicit in the aim of the project therefore, and across JUSTICE's work, is the goal to ensure that the Government creates properly functioning administrative systems, which share core features: clarity; transparency; expeditious processing; and fairness, the absence of which understandably lead to questions about Rule of Law. It follows, that the recommendations set out in this report have a dual purpose. First, and foremost, to improve ARAP and the ACRS schemes. Second, to assist the Government in operating administrative systems, which function well and fairly. This is vital so as to prevent the prolonged suffering of displaced, at-risk individuals and groups, like Afghans applying to, or being processed under ARAP or the ACRS- many of whom are at such risk directly on account of their association with or support for the UK mission in Afghanistan.

¹⁴² Unable to travel to a Visa Application Centre to enrol biometrics (overseas applications), Version 1.0, 3 May 2023 (see n.122).

VIII. ACKNOWLEDGMENTS

I would like to thank the Working Group and sub-groups for sharing their knowledge, experience and expertise on the Afghan Resettlement Schemes. I am particularly grateful to **Erin Alcock, Dr. Sara De Jong, Zoe Bantleman, Laure-Hélène Piron,** and **Sarah Pinder** for their detailed legal and policy analysis, contributions and thoroughness in tackling an incredibly complex area. Thanks are also due to **Naila Hadid** for her work with Afghans with lived experience, and **Catherine Dowle**, Paralegal at Deighton Pierce Glynn for her work on the communications sub-group.

I am immensely grateful to our corporate partner **Dechert LLP**, and Pro Bono Counsel **Marion Edge**, for their support of the project and the Working Party, and providing exceedingly valuable pro bono assistance, including an extensive timeline, and substantial comparative exercise on the approaches in several other ad-hoc immigration schemes, led by **Sarah Moffat**. Thanks are due in particular to trainee lawyers, **Victor Chatelais** and **Yan Shen Tan** whose minutes were expertly detailed and usefully written.

JUSTICE also wishes to express its gratitude to **the Paul Hamlyn Foundation**, whose generosity enabled this report, and the Lessons Learning Project to progress.

This project would not have been possible without the commitment and guidance of the JUSTICE project lead, **Heidi Bancroft**. We are also hugely indebted to our rapporteur, **Şefki Bayram**, JUSTICE Senior Fellow, for his immense contribution in marshalling evidence from the Working Group, and in his indispensable efforts in the drafting and production of this report.

Our deepest thanks are reserved for members of the Afghan community, who shared with us their lived experiences of the system.

Sonali Naik

Sonali Naik KC
Chair
August 2023

XI. DEFINED TERMS

ACRS – Afghan Citizens Resettlement Scheme

AFM – Additional Family Members

ARAP – Afghan Relocations and Assistance Policy

EUSS – EU Settlement Scheme

FCDO – Foreign, Commonwealth & Development Office

GWF – Global Web Form

ILE – Indefinite Leave to Enter

IP – Intimidation Policy

IED – Improvised explosive devices

IIU – Intimidation Investigation

ILR – Indefinite Leave to Remain

LEC – Locally Employed Civilians

LES – Locally Employed Staff

LSU – Labour Support Unit

LTE – Limited Leave to Enter

MoD – Ministry of Defence

SIAC – Special Immigration Appeals Commission

SOP – Standard Operating Procedure

The Defence Committee – House of Commons Defence Committee

UKVI – UK Visas and Immigration

VAC – Visa Application Centre

X. APPENDIX

I. Case Studies

Case study 1 – ARAP Interpreter 1 – delays, inconsistent decision-making and paucity of reasons given for refusals

6 May 2021 - Application submitted under categories 1 and 2

25 June 2021 – Refused. The reason given in the decision is that the applicant had been dismissed from service, and was therefore not eligible for relocation by default.

17 August 2021 - Second application submitted.

17 March 2022 – Refused again.

The reason given in this decision is that the applicant was not employed by a UK Government Department, and that they did not meet the criteria: “You were directly employed in Afghanistan by a UK government department or provided linguistic services to or for the benefit for members of the UK’s armed forces in Afghanistan.” No reference is made to the earlier decision of 25th June 2021.

21 May 2022 – Applicant requests a review of the decision, within the 90-day deadline. This request remains pending, and the applicant did not receive any further contact until he submits on 8 June.

8 June 2023 - A pre-action protocol letter challenging the delay and inconsistent decisions, with the help of solicitors.

30 June 2023 – The applicant is contacted in relation to his request for a review and requested to submit his grounds/supporting documents.

13 July 2023 – submits his documents with the help of a lawyer.
Review remains pending.

Case Study 2 – ARAP Interpreter 2 - Application submitted under Categories 1 and 2 in May/June 2021 – delays

This interpreter is in a third country (not in the Afghanistan/Pakistani/Iranian region and this was the case before the Taliban took over in 2021). His application remains outstanding to date. The delays (as well as the other traumatic experiences from his journey to third country) have had very serious, adverse impacts on his mental health. His case was moved to the Afghan Pro Bono Initiative in March 2022, and they were able to secure funding to document the client’s ill-health in a psychiatric report prepared in Summer 2022. He is also living in very 2 precarious circumstances, at times involving street homelessness in this third country, which has affected him physically as well. Written representations enclosing medical evidence and addressing on-going delays have been made (November 2022) with little to no engagement. Following a chaser email, the GLD respond giving general information on ARAP applications, the numbers and how these are processed – extracts as follows:

In this letter, the GLD state that:

“The task of addressing ARAP applications is on an unprecedented scale. Very considerable amounts of time, resources and personnel have been, and continue to be, deployed to ensure that applications are considered as quickly, efficiently, accurately and fairly as possible.”

“Not all applicants will receive an ARAP eligibility decision in the same timeframe e.g. due to checks that may be required with Other Government Departments and the length of time it takes an applicant to respond to follow-up queries.”

Details of a triage system are given: “Applications are now triaged out to separate out those that are clearly ineligible and those which are highly likely to be eligible and allocated to separate casework teams...”

The GLD also give information on expediting cases:

“There may be other instances where a case could be expedited, including, but not limited to, where there is credible evidence that one or more of the following applies: there is an unusually high and imminent threat to life; the applicant requires immediate life-saving medical treatment for a medical condition unavailable in their current location; there are implications for diplomatic and international relations;

or there are implications for national security. These will be the exception as opposed to the rule, to not disadvantage other applicants e.g. vulnerable applicants who do not have the means to instruct legal representation.”

“Furthermore, because your client was dismissed from employment, a Minister will make the determination decision regarding your client’s application.”

In response to our request to expedite the Claimant’s ARAP application, the letter states that:

“Having reviewed your correspondence, we do not consider that your client has fulfilled the criteria for expedition. Although your client has provided evidence of his living situation and mental health condition, this does not meet the threshold of ‘unusually high and imminent threat to life’. Your client’s evidence does not indicate that he needs immediate life-saving medical treatment for a medical condition or such treatment would be unavailable in France... Bearing the above in mind, our clients will be unable to respond substantively in the timeline you have requested, but they will take a decision in respect of your client’s ARAP application as quickly as possible in accordance with the process outlined above.”

The pre-action protocol letter on delay/failure to engage was submitted in February 2023 and a response was received from the GLD. They maintained their position that client’s circumstances not serious/urgent/compelling enough to warrant prioritisation, that a minister will need to make a decision in his case and they cannot give timescales for a decision. Application remains pending to date and reps/client are preparing next steps to try and escalate further.

**Comparison of The Afghan Citizens Resettlement Scheme and The Afghan Relocation and Assistance Policy
as against the Syrian, Ukrainian and Hong Kong resettlement schemes**

| | The Afghan Citizens Resettlement Scheme (ACRS)¹² | The Afghan Relocation and Assistance Policy (ARAP)³⁴⁵ | Syrian Vulnerable Persons Resettlement Scheme (VPRS)⁶⁷⁸⁹ | Ukraine Sponsorship Scheme (informally known as Homes for Ukraine) (USS)¹⁰¹¹¹²¹³ | Ukraine Family Scheme (UFS)¹⁴¹⁵¹⁶ | Ukraine Extension Scheme (UES)¹⁷¹⁸¹⁹ | Hong Kong British Nationals (Overseas) (BN(O) Route)²⁰²¹²²²³ |
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| Eligibility criteria | <p>Eligible individuals are identified through one of three “referral pathways”:</p> <ul style="list-style-type: none"> • Pathway 1 - Individuals identified under Operation Pitting: places under this pathway were used to grant long-term immigration status to people who arrived in the UK in Summer 2021 during the Operation Pitting evacuation programme. Post-Operation Pitting, eligible people under this pathway are any vulnerable and/or at-risk individuals, notified by the UK Government that they would have been evacuated under Operation Pitting but could not board flights during Operation Pitting. • Pathway 2 - Refugees in neighbouring countries: people who have left Afghanistan to enter refugee camps in neighbouring countries identified by the United Nations High Commissioner for Refugees (“UNHCR”) and then referred to the Home Office. The UNHCR assesses an individual's protection needs and vulnerabilities and makes referrals based on its standard resettlement submission categories (including but not limited to, legal and/or physical protection needs, survivors of torture and/or violence, family reunion and women and girls at risk (“UNHCR Resettlement Categories”). • Pathway 3 - Eligible “at risk” individuals in Afghanistan or the region: people who are currently in Afghanistan or the surrounding region. In the first stage of this pathway, the UK Government considered eligible people from three groups: British Council contractors, GardaWorld contractors and Chevening alumni. Expressions of interest to apply for this pathway | <p>The eligibility criteria are split into four categories:</p> <ul style="list-style-type: none"> • High and imminent risk of threat to life: applicants who are employees of the UK Government in Afghanistan on or after 1 October 2001 who (because of that employment) are assessed to be at high/ imminent risk of threat to life. • Eligible for relocation by default: at any time on or after 1 October 2001, the applicant must have: <ul style="list-style-type: none"> a) been directly employed in Afghanistan by the UK Government; or b) provided linguistic services to/ for the benefit of members of the UK armed forces in Afghanistan (under a contract to a UK Government department). <p>Additionally, the nature of the applicant’s role must have:</p> <ul style="list-style-type: none"> a) been such that the UK’s operations in Afghanistan would have been materially less efficient or materially less successful if a role of that nature had not been performed; b) exposed them to being publicly recognised as having performed that role; or c) compromised their | <p>The VPRS accepted refugees from specified countries in the Middle East and North Africa who fled the Syrian conflict and who had been deemed vulnerable against any of the UNHCR's Resettlement Categories.</p> <p>The VPRS was originally only available to Syrian nationals but was extended in July 2017 to include non-Syrian refugees who had fled the conflict in Syria.</p> | <ul style="list-style-type: none"> • Applicants for the USS must: <ul style="list-style-type: none"> a) be Ukrainian or the ‘immediate family member’ of a Ukrainian national who has been granted permission under, or is applying to and qualifies for, the USS; b) have been residing in Ukraine on or immediately before 1 January 2022 (including those who have now left Ukraine); c) be outside of the UK; and d) have an eligible UK-based sponsor. • Children under 18 years old must either: <ul style="list-style-type: none"> a) apply with their parent or legal guardian; b) apply to join their parent or legal guardian if they’re already in the UK; or c) apply with the consent of their parent or legal guardian to travel to the UK to join an approved sponsor and have: <ul style="list-style-type: none"> i) proof of consent by their parent or legal guardian notarised or certified by the Guardianship Service of the city or regional council in | <ul style="list-style-type: none"> • Applicants for the UFS must: <ul style="list-style-type: none"> a) be applying to join or accompany a UK-based family member (as defined below); b) be Ukrainian or the immediate family member of a Ukrainian national who is applying to the scheme; and c) have been residing in Ukraine on or immediately before 1 January 2022 (including those who have now left Ukraine). • “UK-based family member” means: <ul style="list-style-type: none"> a) a British national; b) someone settled in the UK (for example, they have indefinite leave to remain, settled status or proof of permanent residence); c) someone from the EU, Iceland, Liechtenstein, Norway or Switzerland who has pre-settled status under the EU Settlement Scheme and started living in the UK before 1 January 2021; or d) someone with refugee status or humanitarian protection in the UK; | <ul style="list-style-type: none"> • Applicants can apply for the UES if they are Ukrainian or the close family member of a Ukrainian and if one of the following is true: <ul style="list-style-type: none"> a) the applicant held permission to be in the UK on or between 18 March 2022 and 16 May 2023 - the permission does not need to cover the whole period; or b) the applicant previously held permission to be in the UK and that permission expired on or after 1 January 2022. • Subject to the Parliamentary process, the Immigration Rules are expected to change in July 2023 to extend the eligibility for the UES to include those who were granted permission after 16 May and by 16 November 2023, with all applications to be made before 16 May 2024. | <p>Pathway 1 - BN(O) Status Holder Route</p> <p>(See family reunification row for Pathway 2)</p> <p>Applicants must</p> <ul style="list-style-type: none"> • be a BN(O) status holder or the eligible family member of a BN(O) status holder; • be ordinarily resident in Hong Kong (if applying for entry clearance) or Hong Kong, the UK or any Crown Dependency (Jersey, Guernsey or the Isle of Man) (if applying for permission to stay); • demonstrate that they (and their dependents) have adequate maintenance and accommodation for 6 months without access to public funds (unless an application is for permission to stay and the applicant has been in the UK for more than 12 months); and • hold a valid tuberculosis test certificate. <p>A BN(O) status holder is a person aged 18 or over who registered for BN(O) status prior to the territorial handover on 1 July 1997, or any person under 18 at the time of the handover that was added to their parent’s passport.</p> <p><i>Eligible family members are:</i></p> <ul style="list-style-type: none"> • <u>Dependent partners</u>: a spouse, civil partner or |

| | The Afghan Citizens Resettlement Scheme (ACRS) ¹² | The Afghan Relocation and Assistance Policy (ARAP) ³⁴⁵ | Syrian Vulnerable Persons Resettlement Scheme (VPRS) ⁶⁷⁸⁹ | Ukraine Sponsorship Scheme (informally known as Homes for Ukraine) (USS) ¹⁰¹¹¹²¹³ | Ukraine Family Scheme (UFS) ¹⁴¹⁵¹⁶ | Ukraine Extension Scheme (UES) ¹⁷¹⁸¹⁹ | Hong Kong British Nationals (Overseas) (BN(O) Route) ²⁰²¹²²²³ |
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| | <p>for such groups are now closed.</p> <p>In the longer term, Pathway 3 is intended to cater for:</p> <p>a) wider groups of people at risk in Afghanistan who have supported the UK and International community effort in Afghanistan; and</p> <p>b) those who are particularly vulnerable such as women and girls at risk and members of minority groups.</p> | <p>safety.</p> <ul style="list-style-type: none"> • Not eligible for relocation but other support is offered: applicants who do not qualify in the two categories listed above due to holding exposed meaningful enabling roles. • Special cases: applicants who: <ul style="list-style-type: none"> a) On or after 1 October 2021: <ul style="list-style-type: none"> i) were directly employed in Afghanistan by the UK Government; or ii) provided goods or services in Afghanistan under contract to a UK Government department; or iii) worked in Afghanistan alongside a UK Government department in partnership with/ closely supporting and assisting said department; and b) in the course of that employment / work / provision of services, they made a substantive and positive contribution to the UK's military objectives or national security objectives in Afghanistan; and c) because of that employment/ work/ provision of services, the applicant is or was at an elevated risk of targeted attacks and is/ or was at high risk | | <p>Ukraine; or, where the child is in another country, notary authorities in that country or by the Ukrainian Embassy or Consulate;</p> <p>ii) proof of consent from their parent or legal guardianship to the sponsorship arrangement;</p> <p>iii) a commitment to sponsorship for 3 years or until the child turns 18 (so long as the sponsorship lasts at least 6 months); and</p> <p>iv) approval of the sponsorship arrangement by the local council where the child will live.</p> <ul style="list-style-type: none"> • Sponsors must: <ul style="list-style-type: none"> a) have at least six months' leave to remain in the UK and may be of any nationality, with any immigration status; a) be able to provide accommodation for a minimum of six months; and b) meet standards of security and safeguarding checks. • N.b. 'immediate family member' means: <ul style="list-style-type: none"> a) a spouse or civil partner; b) an unmarried partner (living together in a | <p>and who is:</p> <p>i) the applicant's immediate family member (meaning a spouse/civil partner, unmarried partner (living together in a relationship for at least 2 years), child under 18, parent (if applicant under 18), fiancé(e), or proposed civil partner);</p> <p>ii) the applicant's extended family member (meaning a parent (if applicant over 18), child over 18, grandparent, grandchild/partner's grandchild, sibling, aunt/uncle, niece/nephew, cousin, parent-in-law, grandparent-in-law, or sibling-in-law); or</p> <p>iii) the spouse or civil partner, unmarried partner, child, parent, or fiancé(e) or proposed civil partner of the applicant's extended family member.</p> <ul style="list-style-type: none"> • If the UK-based family member is the applicant's (or an extended family member's) spouse, civil partner, fiancé(e) or proposed civil partner, the relationship must have started before 1 January 2022. Other family members will be considered where there are exceptional circumstances. | | <p>unmarried partner for more than 2 years of a BN(O) status holder;</p> <ul style="list-style-type: none"> • <u>Adult Dependent Relatives</u>: a parent, sibling or child (each aged over 18) or a grandparent of a BN(O) status holder that can demonstrate a high level of dependency; and/ or • <u>BN(O) Household Children</u>: a dependent child or grandchild of a BN(O) status holder (or their partner) that is under 18 years old. |

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| | | <p>of death or serious injury; or</p> <p>d) hold information the disclosure of which would give rise to or aggravate a specific threat to the UK Government or its interests.</p> | | <p>relationship for at least two years);</p> <p>c) a child who is under 18;</p> <p>d) a parent (if applicant is under 18);</p> <p>e) a fiancé(e) or proposed civil partner.</p> | | | |
| Application process | <p>There is no application process under ACRS. Instead, eligible individuals will be prioritised and referred for resettlement in the UK under one of the three Pathways:</p> <ul style="list-style-type: none"> • Pathway 1 – post-Operation Pitting, those who would have been eligible for evacuation during Operation Pitting. • Pathway 2 – individuals must be referred from the UNHCR to the Home Office. <p>Pathway 3 – interested individuals had an 8-week window to submit an Expression of Interest (until 15 August 2022). Potentially eligible individuals also need to complete security and medical checks and submit biometric information before their eligibility is confirmed. A passport and visa may also be required if the applicant is entering a third country to stay in as part of the relocation process.</p> | <ul style="list-style-type: none"> • When an ARAP application is submitted, eligibility is considered by the Ministry of Defence (“MoD”) followed by a request for information about, and an eligibility decision on, their family members who are included. • An applicant has 42 days to respond to information requests by the MoD. Failure to respond to such requests will result in a rejection of an application. <p>Where an applicant (and their family) is eligible for relocation, the Home Office will make this on their behalf under the ARAP Immigration Rules.</p> | <ul style="list-style-type: none"> • The UK set the criteria and the UNCHR identified potential cases for consideration. • Cases were then screened and considered by the UK Government, and they reserved the right to reject applications based on security, war crimes or other grounds. • Once the screening process had been completed, a full medical assessment was conducted by the International Organisation for Migration (“IOM”) in the host country. • Full details of the case and medical assessment were sent to the local authority for assessment of need, including whether suitable accommodation and care were available locally. • Once eligibility was confirmed, the IOM would commence the visa application process. • Arrangements were made for the 5-year biometric residence permit to be issued. • Following the five-year period, resettled Syrians would decide whether they wished return to Syria or apply for permanent | <ul style="list-style-type: none"> • Either the sponsor or the Ukrainian being sponsored can apply online by completing a form. • Applicants will be vetted and will undergo security checks. • Sponsors who do not know who they wish to sponsor can register their interest using an online form to be matched with a Ukrainian applicant or engage with one of the approved organisations to help match with an applicant. Once matched, the relevant local council will carry out DBS checks on the sponsor and visit their property to check it meets certain standards. • Sponsors and all adults aged 18 and over who will live in the same household as the applicants will be subject to security and criminal checks. All adults aged 16 and over who will live in the same household as the applicants will be subject to safeguarding and DBS checks. Evidence of the sponsor’s identity and the sponsor’s residential address must also be provided. • The applicant must prove their identity and provide their biometric information either via app or by visiting a visa application centre. The | <ul style="list-style-type: none"> • The individual must prove their identity and provide their biometric information either via app or by visiting a visa application centre. • The process for providing such information depends on whether the individual has a valid Ukrainian international passport. | <ul style="list-style-type: none"> • Applicants can apply for the UES via online application form. • Applicants must provide a valid passport or other travel document that shows their identity and evidence that they have/had permission to be in the UK (for example, a biometric residence permit, a visa in passport or a Home Office document showing permission to enter or remain in the UK). • If the applicant is a non-Ukrainian family member of a Ukrainian national, they are required to provide evidence of the relationship (such as a marriage/birth certificate or evidence of cohabitation with an unmarried partner) or biometric residence permit or visa in passport if in the UK as their dependant. | <p>Applications are made via the UKGOV online portal.</p> <ul style="list-style-type: none"> • Applicants must provide a valid passport. BN(O) status holders can apply use their BN(O) passport to apply. • Supporting evidence must also be provided of a TB test certificate, proof of finances and proof of residency per the abovementioned requirements, in addition to proof of relationship with family members (as applicable). • Adult children of a BN(O) status holder applying independently must also provide a birth or adoption certificate and the relevant parent’s current or expired passport. <p><u>Fees</u></p> <ul style="list-style-type: none"> • £180 for 30-month application and £250 for five-year application; plus • Health surcharge of £1,560 (over-18s) or £1,175 (under-18s) for 30-month applications, and £3,120 (over-18s) or £2,350 (under-18s) for five-year applications. |

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| | | | settlement in the UK. | <p>process for providing such information depends on whether the individual has a valid Ukrainian international passport.</p> <ul style="list-style-type: none"> If a visa application is refused because the sponsor does not meet the eligibility requirements for the Homes for Ukraine Sponsorship Scheme, the applicant may find a new sponsor and submit a new application. | | | |
| Ability of successful applicants to apply for family reunification | A spouse or partner and dependent children under the age of 18 of eligible individuals will be resettled under the ACRS. Some additional family members may be resettled in exceptional circumstances. | <ul style="list-style-type: none"> An applicant who is eligible for relocation may relocate with a partner, dependent children and additional family members who are also deemed eligible for relocation under ARAP by the MoD and suitable for relocation by the Home Office. Where an Afghan citizen or their partner relocate to the UK, family members not included in the initial application, who nevertheless wish to join the principal applicants, are unable to subsequently apply under ARAP. They must instead apply directly to the Home Office to join their family in the UK. | <p>Refugees accepted under the VPRS could apply for family reunion with immediate family members being:</p> <ul style="list-style-type: none"> a spouse or civil partner or unmarried partner where the couple has been living together for at least two years; children under the age of 18. Children over the age of 18 may be considered in exceptional circumstances, if they formed part of the family unit prior to the refugee having fled Syria and provided they declared the dependant(s) on their resettlement referral (or unless they could provide a reasonable explanation for their omission on their referral) and they were related to the dependant(s) as claimed. | <ul style="list-style-type: none"> Immediate family members of a Ukraine national who has been granted permission under the USS can make an application under the USS. A separate application is required per individual coming to the UK under the USS. Children who are currently outside of the UK can use the USS to reunite with their parent or legal guardian who is currently living in the UK if they are the child's sponsor. | Family members of a Ukraine national who is applying to the UFS can also make an application under the UFS. | Immediate family members of a Ukrainian national who is applying to the UES can also make an application under the UES. | <p>Pathway 2 - BN(O) Household Member Route</p> <p>Allows the adult child of a BN(O) status holder or the adult child of a BN(O) status holder's partner to apply with their eligible family members (dependent partners, Adult Dependent Relatives, or dependent children).</p> <p>The adult child of a BN(O) status holder can apply independently of their BN(O) parent and must also meet the TB test certificate, financial and residential requirements referred to above. Eligible family members must also separately meet these requirements.</p> <p>Adult children of the partner of a BN(O) status holder can only apply together with the BN(O) status holder who is the main applicant. In addition to the TB test certificate, financial and residential requirements, the adult child must also normally live with the BN(O) status holder.</p> <p>The dependent child of the adult child applicant (living together) can also be included in an application under this route <i>provided</i> that the</p> |

| | The Afghan Citizens Resettlement Scheme (ACRS) ¹² | The Afghan Relocation and Assistance Policy (ARAP) ³⁴⁵ | Syrian Vulnerable Persons Resettlement Scheme (VPRS) ⁶⁷⁸⁹ | Ukraine Sponsorship Scheme (informally known as Homes for Ukraine) (USS) ¹⁰¹¹¹²¹³ | Ukraine Family Scheme (UFS) ¹⁴¹⁵¹⁶ | Ukraine Extension Scheme (UES) ¹⁷¹⁸¹⁹ | Hong Kong British Nationals (Overseas) (BN(O) Route) ²⁰²¹²²²³ |
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| | | | | | | | application is made by both parents (i.e. the adult child applicant and the second parent must each be applying) unless the adult child applicant is the sole living parent of the dependent child, has sole responsibility of bringing up the child or there are serious and compelling reasons to grant the child clearance with only the adult child applicant. The usual TB, financial and residential requirements apply. |
| Time frames | This remains unclear. | The MoD are aiming to process all initial outstanding ARAP applications by the end of August 2023. | No data available. | The UK Government aim to make a decision as quickly as possible. | The UK Government aim to make a decision as quickly as possible. | The UK Government aim to make a decision as quickly as possible. | The UK Government aims to make a decision within 12 weeks from the date of submission. |
| Duration of stay | Anyone resettled in the UK is granted indefinite leave to enter and remain. | <ul style="list-style-type: none"> Prior to 2 September 2021, if the Home Office granted an applicant entry clearance, the applicant would receive a limited leave to enter for 5 years. Since 2 September 2021, applicants have been granted indefinite leave to remain in the UK and any applicants with a limited leave to remain before that date, may apply for indefinite leave to remain in the UK at any time during the 5 year period. | <ul style="list-style-type: none"> Individuals who arrived under the VPRS were granted refugee status with five years leave to remain. After five years, individuals may be eligible to apply for indefinite leave to remain, and subsequently British citizenship, if they meet the requirements. | Successful applicants are able to stay in the UK for up to 3 years. | Successful applicants are able to stay in the UK for up to 3 years. | Successful applicants are able to stay in the UK for up to 3 years (less any time they have already been on the USS or the UFS). | <p>Applicants can be made to stay for either 30 months (extendable for another 30 months) or five years at once.</p> <p>After five years, an application can be made to stay in the UK permanently.</p> |

| | The Afghan Citizens Resettlement Scheme (ACRS)¹² | The Afghan Relocation and Assistance Policy (ARAP)³⁴⁵ | Syrian Vulnerable Persons Resettlement Scheme (VPRS)⁶⁷⁸⁹ | Ukraine Sponsorship Scheme (informally known as Homes for Ukraine) (USS)¹⁰¹¹¹²¹³ | Ukraine Family Scheme (UFS)¹⁴¹⁵¹⁶ | Ukraine Extension Scheme (UES)¹⁷¹⁸¹⁹ | Hong Kong British Nationals (Overseas) (BN(O) Route)²⁰²¹²²²³ |
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| Numbers who have applied and been accepted | <p>As of 31 March 2023, the number of individuals who have been resettled under the ACRS are as follows:</p> <ul style="list-style-type: none"> 9,059 people under Pathway 1 (including 6,398 people granted Indefinite Leave to Remain in country); 40 people under Pathway 2; and 14 people under Pathway 3. | <p>As of 28 July 2023, 141,000 applications have been received (a figure that includes duplicate applications):</p> <ul style="list-style-type: none"> 12,200 individuals relocated to the UK; 58,226 refused; 30,216 awaiting decision; Approx. 4,300 individuals (principal applicants plus family members) left to relocate to the UK. | <p>The VPRS officially closed in February 2021 and by that point 20,319 individuals had been resettled in the UK.</p> | <p>As of 11 July 2023, 202,300 applications made:</p> <ul style="list-style-type: none"> 165,300 visas issued; 23,600 withdrawn; 4,800 refused; and 8,600 awaiting conclusion | <p>As of 11 July 2023, 99,900 applications made:</p> <ul style="list-style-type: none"> 69,300 visas issued; 11,500 withdrawn; 18,000 refused; and 1,000 awaiting conclusion. | <p>As of 11 July 2023, 23,600 applications made:</p> <ul style="list-style-type: none"> 18,800 applications granted; and 2,400 applications awaiting conclusion. | <p>As of 31 March 2023:</p> <ul style="list-style-type: none"> 172,500 applications have been made; 139,114 BN(O) visas have been granted (plus an additional 27,276 granted to in-country applicants); and 113,500 people have arrived in the UK. |
| Summary of key differences between Schemes²⁴ | <ul style="list-style-type: none"> Open to individuals who fall under one of the three Pathways. No application process – referral-based. ACRS is free of charge. Individuals are given indefinite leave to enter or remain. 5,000 people to be settled in the first year and up to a maximum of 20,000 over the next few years. | <ul style="list-style-type: none"> Open to Afghan citizens who worked for or with the UK Government in exposed or meaningful roles. Application process. ARAP is free of charge. Individuals are given indefinite leave to remain. No limit/quota on number of applicants/people eligible. | <ul style="list-style-type: none"> Open to both Syrian nationals and non-Syrian nationals who had fled the conflict in Syria and who had been deemed vulnerable against any of the UNHCR resettlement categories. No application process – referral-based. VPRS was free of charge. Individuals were given 5 years leave to remain and ability to apply for indefinite leave to remain thereafter. Cap of 20,000 individuals | <ul style="list-style-type: none"> The Ukrainian Schemes are open to any Ukrainians but in the case of the USS and UFS, they must have a sponsor or family in the UK who are British citizens or settled residents. Application process. Ukrainian Schemes are free of charge. Visas give thee years permission to stay but do not provide a path to permanent residence. No limit/quota on number of applicants/people eligible. | <ul style="list-style-type: none"> Only open to BN(O) status holders or certain family members, subject to the above criteria. Application process (subject to application fees – see above) Separate application for permanent settlement required after 5 years. No quota/cap on visa applications. | | |

¹ UK Visas and Immigration and Home Office – Guidance on Afghan citizens resettlement scheme. Available at <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme#:~:text=Any%20offer%20of%20resettlement%20under,crimes%20will%20not%20be%20eligible> .

² Home Office – Afghan Resettlement Programme: operational data. Available at <https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data#:~:text=Grants%20of%20Indefinite%20Leave%20to%20Remain,-The%20number%20of&text=We%20have%20granted%20Indefinite%20Leave,ACRS%20Pathway%201%20grants%3A%206%2C398>

³ Ministry of Defence, Guidance on Afghan Relocations and Assistance Policy: further information on eligibility, criteria, offer details and how to apply. Available at <https://www.gov.uk/government/publications/afghan-relocations-and-assistance-policy/afghan-relocations-and-assistance-policy-information-and-guidance>

⁴ Home Office – Afghan Resettlement Programme: operational data. Available at <https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data#:~:text=Grants%20of%20Indefinite%20Leave%20to%20Remain,-The%20number%20of&text=We%20have%20granted%20Indefinite%20Leave,ACRS%20Pathway%201%20grants%3A%206%2C398>

⁵ UK Parliament – Afghanistan: Refugees. Question for Ministry of Defence, 21 June 2023. Available at <https://questions-statements.parliament.uk/written-questions/detail/2023-06-21/190612/>

⁶ Home Office – UK Refugee Resettlement: Policy Guidance. Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1011824/Resettlement_Policy_Guidance_2021.pdf

⁷ Home Office – Syrian Vulnerable Persons Resettlement Scheme (VPRS), Guidance for local authorities and partners, July 2017. Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/631369/170711_Syrian_Resettlement_Updated_Fact_Sheet_final.pdf

⁸ Office for National Statistics, Census 2021, Early Integration outcomes for refugees resettled in England and Wales: 2015 to 2021. Available at <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/earlyintegrationoutcomesforrefugeesresettledinenglandandwales/2015to2021/previous/v1#:~:text=By%20the%20time%20the%20schemes,1%2C838%20resettled%20through%20the%20VCRS>

⁹ House of Commons Library: Refugee Resettlement in the UK. Available at <https://researchbriefings.files.parliament.uk/documents/CBP-8750/CBP-8750.pdf>

¹⁰ *The Home Office: Immigration information for Ukrainians, British nationals and their family members, 22 September 2022.* Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1106715/FactSheet_4_Immigration_Information_for_Ukrainians_British_Nationals_Family_Members_ENG_22_SEP.pdf

¹¹ *House of Commons Library: Anniversary of the Homes for Ukraine scheme, 28 February 2023.* Available at: <https://researchbriefings.files.parliament.uk/documents/CDP-2023-0043/CDP-2023-0043.pd>

¹² *UK Visas and Immigration and Home Office, Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine), updated 13 April 2023.* Available at: <https://www.gov.uk/guidance/apply-for-a-visa-under-the-ukraine-sponsorship-scheme>

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