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**Afghan
Pro Bono
Initiative**

Hosted by **Refugee Legal Support**
and **Safe Passage International**



To : The Prime Minister of the United Kingdom

Urgent Call to Action:

Time for UK Government to Fulfil Promises to Afghan Allies

Date: 05 July 2024

Dear Prime Minister,

We, the undersigned, write to express our concerns about the safety of thousands of Afghans who served alongside the armed forces of the United Kingdom ("UK"), as well as those who upheld British values for decades in Afghanistan. We write as lawyers, case workers, Afghan community members, legal organisations and others working directly with the Afghan community.

We urge that to prevent further loss of life and to honour its commitments, the UK Government must act now to provide safe routes, offer welcome, and take responsibility for Afghans in need of safety.

The UK's responsibility to Afghans in peril should not be understated. The UK Government's work with Afghan nationals during the UK Government's operations in, and subsequent departure from, Afghanistan, has directly jeopardised the safety and livelihood of thousands of people and their families.

It is now more than two years since the UK Government promised to open safe routes via Resettlement schemes. However, as research has demonstrated, the schemes are not fit for purpose. The resulting lack of access puts lives at risk and causes immense despair, fear and desperation.

This letter highlights the urgent necessity to assist Afghans at risk and their family members. We offer practical recommendations to rectify the shortcomings in the current Afghan Resettlement Schemes. These individuals have endured prolonged delays. They must now be promptly relocated to safety in the UK.

We call on the new Government to honour the UK's commitments and to accept and act on our recommendations. It is time that the promises made are now fulfilled.

Summary

Since the momentous shift in Afghanistan in August 2021, when the Afghan government collapsed and the Taliban took control of Kabul, Afghans have faced severe challenges in seeking safe routes to the UK.

Both the Afghan Pro Bono Initiative Report ("[APBI Report](#)")¹ and the results of the inspection by the Independent Chief Inspector of Borders and Immigration² have observed that the current Afghan Resettlement Schemes³, are plagued with severe delays, critical errors in casework and data processing, and a lack of transparency.

Further detailed research from JUSTICE⁴ and the Refugee Council⁵ supports these findings.

The Resettlement Schemes have fallen well short of the targets set by the Government, leading to thousands of eligible Afghans waiting in desperate and dangerous circumstances.

When ARAP launched in April 2021, more than 100,000 people applied in the first year.

As of May 2024, only 15,592 people have been relocated under ARAP including around 5,000 during the Government's evacuation mission in August 2021. Under ACRS, as of May 2024, the UK Government has granted indefinite leave to remain to 9,703 individuals under Pathway 1, 663 individuals under Pathway 2, and only 1,207 individuals under Pathway 3.⁶ By contrast, when the ACRS was launched in January 2022, the UK Government set a goal of resettling up to 20,000 people over the following years.

These statistics are a real cause for concern and demonstrate that the Resettlement Schemes are failing to facilitate effective safe routes for Afghans to enter the UK.

It is crucial for the Government to provide safe and legal passage to the UK, as limited (and ineffective) safe routes push vulnerable Afghans with no alternative path to sanctuary, to use dangerous routes which place their lives at risk.

The number of Afghans crossing the Channel on small boats has risen over the years. Government statistics indicate that, in the year ending March 2024, there were 5,662 Afghan arrivals, accounting for 19% of all small boat arrivals, compared to 554 arrivals in 2020.⁷

We make the following recommendations:

1. **Processing times:** evaluate and increase the speed at which applications are processed to help address delays. This should include ensuring caseworkers receive adequate and consistent training.
2. **Exceptional circumstances:** establish a mechanism to evidence any exceptional circumstances and introduce a route for expediting applications that fall under such "exceptional circumstances".

¹ Afghan Pro Bono Initiative, "Two Years of Empty Promises: The UK Leaves Afghans Stranded and At Risk" (August 2023) (the "[APBI Report](#)").

² ICIBI, "An inspection of the Home Office's Afghan resettlement schemes (October 2022 – April 2023)" (February 2024) (the "[Inspection Report](#)"); (the "Inspection Report")

³ Namely the Afghan Relocations and Assistance Policy ("ARAP") and Afghan Citizens Resettlement Scheme ("ACRS") (together the "Resettlement Schemes"),

⁴ JUSTICE, "Reforming the Afghanistan Resettlement Schemes: the way forward for ARAP and ACRS" (August 2023) (the "[JUSTICE Report](#)"); ((the "JUSTICE Report")

⁵ Refugee Council, "Afghan refugees: What happened to the warm welcome" (August 2023) (the "[Refugee Council Report](#)")

⁶ These figures refer to the data published by the Immigration System Statistics published by Gov.uk: "Afghan Resettlement Programme: operational data", 24 May 2024 ([Afghan Resettlement Programme: operational data - GOV.UK \(www.gov.uk\)](#)). Accessed 12 June 2024.

⁷ Gov.uk: "Irregular migration to the UK, year ending March 2024" (23 May 2024) ([Irregular migration to the UK, year ending March 2024 - GOV.UK \(www.gov.uk\)](#)). Accessed 12 June 2024.

3. **Challenging delays:** introduce a process by which applicants can challenge substantial delays in the processing of their applications. Clear guidance on the process for each Resettlement Scheme must be provided.
4. **Data collection:** improve the methods of data collection and handling for applications relating to the Resettlement Schemes to provide as accurate of a dataset as possible.
5. **Transparency:** in addition to providing better data sets, clarification and further guidance on the relevant application criteria, the decision-making processes and timelines must be made available to applicants at every stage of their application. This information should also be available for any applicants whose applications have been "paused".
6. **Evidence:** waive all formal biometric requirements or provide a suitable alternative means of satisfying them.
7. **Equality:** investigate and rectify the inequalities prevalent in the availability of the Resettlement Schemes, ensuring that vulnerable groups are properly accommodated and eligibility criteria are updated accordingly. An Equality Impact Assessment (EIA) should be carried out in line with any and all significant policy updates or developments, and all reviews should be carried out promptly and thoroughly, with results published transparently.

Delays

The schemes are predicated on the existence of immediate risk. As such, urgency and the need for urgent processing has been self-evident from the start. Any delay puts lives at risk.

And yet there remain issues with substantial delays to applications, affecting both urgent and relatively straightforward applications.

As discussed in the APBI Report, applicants face waiting times of almost two years for initial decisions. Additionally, the JUSTICE Report highlights that significant delays in decision-making and relocation are detrimental to the lives and wellbeing of the Afghans applying to, or referred to, the Resettlement Schemes⁸, whom the UK Government has pledged to support.

Delays from lack of sufficient resourcing and training

Delays in processing applications appear to be driven by a lack of sufficient resourcing and inadequate training of caseworkers on the Resettlement Schemes. Both the APBI Report and the Inspection Report identify problems with the level of training and the monitoring of caseworkers. For instance, in January 2023 there were only 36 full-time caseworkers with around a further 100 other staff involved with ARAP (this figure is contrasted against the reported 540 staff members working on the Homes for Ukraine Scheme).⁹

Additionally, there are findings of unregulated caseworkers on the ACRS providing incorrect advice to applicants. It is imperative that further training is provided to caseworkers to ensure that communication is effective, accurate and avoids unnecessary and undue delays in the application processes.

Delays from data

The Resettlement Schemes are mired with severe errors in data accuracy, leading to challenges in accurate reporting, monitoring of performance, and delays in application processing. Shortcomings in the IT system have led to breaches of applicants' data and impacted data quality and processing efficiency, which in turn have caused delays, decision-making errors, and unresolved applications.

⁸ The JUSTICE Report, page 3.

⁹ The APBI Report, page 18.

Both data handling and systematic IT issues affect individuals' rights and hinder the Government's ability to operate effectively, report accurately, and plan strategically.

Delays from insufficient accommodation resources in the UK

The Inspection Report also cites that the delays to processing applications under the Resettlement Schemes are in part due to the Home Office's decision to pause processing overseas applications due to acute accommodation shortages for refugees once they arrive in the UK. The lack of suitable permanent accommodation for refugees under the Resettlement Schemes is echoed by the Refugee Council Report, which identified that the UK Government only permits people to travel to the UK if accommodation is assured.¹⁰ Yet many refugees already in the UK are housed in hotel accommodation for sustained periods of time, awaiting permanent housing, and in 2023 were told that they may soon be losing even their hotel accommodation.¹¹

The JUSTICE Report identified that, in some instances, delays in the administration of applications, whether or not these are successful, have resulted in applicants and their families being subject to arrest and torture.¹² This cannot be allowed to continue. In the Home Office's response to the Inspection Report, it stated that, in respect of the pause to progress of Resettlement Schemes, eligible overseas applicants were notified on 22 May 2023 that travel would only be arranged when suitable accommodation has been secured. In the future, there needs to be far greater transparency in respect of such delays, and the information should be made readily available to all, not just those already deemed to be eligible. Where there are delays or pauses to applications, regular updates should be provided to applicants, potential applicants, and their representatives, including expected time frames for the resumption of normal processing, and special consideration should be given to applicants who may be in imminent danger and whose applications cannot reasonably be delayed, particularly where that delay is indefinite.

Lack of Transparency

A lack of transparency is prevalent in the Resettlement Schemes and is unacceptable. Improvements in the transparency of the application process is imperative. The UK Government should provide greater clarity surrounding the Resettlement Schemes, including the eligibility and assessment criteria, and applications should be assessed on a case-by-case basis.

Inconsistencies in processing

It is crucial that the processing of applications is uniform and consistent, both in relation to applicants' eligibility, which is confirmed by various departments of the UK Government, and suitability, which is considered by the Home Office. However, the Reports have identified poor coordination between the Government departments in the assessment of key elements of eligibility and suitability. Better interdepartmental communication and clarity on the application criteria across the relevant Government departments is desperately needed to prevent the immense distress these process-related shortcomings cause to applicants.¹³ In its response to the recommendations of the Inspection Report, the Home Office confirmed that the previous two case-working teams have been combined into one joint unit with the aim of increasing consistency and decision quality. It is unclear when the Home Office's case-working units were merged, but despite the supposed "interconnected" nature of the resettlement regimes, the JUSTICE Report states that applicants still regularly face difficulties with inconsistent decision-making; in the interest of increasing transparency, data should be

¹⁰ The Refugee Council Report, page 8.

¹¹ The Refugee Council Report, pages 4-5.

¹² The JUSTICE Report, pages 42-43.

¹³ The JUSTICE Report, pages 4-5 and 62.

provided to evidence that the unification of the case-working teams has indeed improved the consistency and decision-quality that is much-needed in the Resettlement Schemes. It is also apparent that the merging of the case-working units does nothing to resolve the opaque application criteria of the Resettlement Schemes.

The Inspection Report identified significant governance issues in the processing of applications to the Resettlement Schemes. For example, unilateral decisions by the Home Office, including both transferring applicants without their knowledge or consent, and accepting applications that may not align with the intent of the Resettlement Schemes, raise serious concerns about procedural fairness.

There is also a lack of clear targets against which to measure performance.

The lack of any formal biometric waiver process, despite the absence of a Visa Application Centre in Afghanistan, or means of safely accessing one elsewhere in the region, further complicates matters.

The APBI Report recorded firsthand reports of the inconsistent and opaque ARAP decision-making processes and lack of uniformity in the processes adopted by the Governmental bodies administering ARAP. Under ACRS, a referral-based scheme, significant gaps remain regarding the eligibility criteria and the opening of the second stage of the third Pathway, particularly since the system for making an expression of interest under Pathway 3 closed nearly two years ago, on 15 August 2022.. These administrative issues undermine and delay applications. For example, through APBI's legal work, the project has struggled to advise those who satisfy the eligibility criteria but have no means of being referred. In fact, many applicants were led to believe they had applications in progress only to subsequently be informed that they did not.

Lack of publicly available information

There is a lack of publicly available information on the application criteria for various aspects of the Resettlement Schemes, which is a crucial foundation for any application.

This is particularly acute with regard to access to ACRS via Pathway 3 (under the responsibility of the FCDO). This Pathway has already been publicly criticised by MPs for being "opaque".¹⁴ It was established to resettle 'those at risk who supported the UK and international community effort in Afghanistan, as well as those who are particularly vulnerable, such as women and girls at risk and members of minority groups'.¹⁵ However, thus far, the Government has only considered applicants who are British Council contractors, GardaWorld contractors, or Chevening alumni, as a result of the fact that Stage 2 is still yet to be implemented.

The JUSTICE Report has highlighted, in particular, the failures of Pathway 3 which critically lacks any indication of timelines or criteria (noted to be particularly problematic in what has become known as "Stage 2" of Pathway 3, which was originally intended to commence in the second year of the Pathway).¹⁶

It is now two and a half years since the opening of the ACRS and all other people for whom the route was designed to provide a pathway to resettlement (i.e., under Stage 2 of Pathway 3) are left without one.

¹⁴ Hansard "Afghan Citizens Resettlement Scheme: Pathway 3", Margaret Ferrier, Volume 726; debated 19 January 2023

¹⁵ Gov.uk, "Afghan citizens resettlement scheme" ([Afghan citizens resettlement scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/afghan-citizens-resettlement-scheme)). Accessed 25 June 2024.

¹⁶ The JUSTICE Report, pages 33-34, 56-57 and 85.

The Resettlement Schemes' policies regarding family reunion are also unclear (creating barriers to reuniting family members)¹⁷, with the relevant application forms not being fit for purpose.

Adherence to Governmental duties

Limited recourse to challenge delays

Applicants have limited recourse to challenge delays or alert the relevant authority of extremely urgent cases. This is compounded by the difficulty applicants face in identifying the relevant authority. For example, it remains unclear whether ARAP expedition requests should be made to the Home Office or the Ministry of Defence.

Fundamental concept of public accountability

The Government is held to a higher standard of public accountability in order to uphold strong promises of fair and equitable governance. However, trust in the Resettlement Schemes is seriously undermined by the lack of transparency and delays in the Government's decision-making. In particular, the Inspection Report found the Home Office's lack of transparency had involved the operation of a "secret policy" and has led to frustration and uncertainty among stakeholders.

The Inspection Report raised substantial concerns regarding whether the ACRS, in practice, was aligned with the policy goals established at its inception. Several of the Reports identified a lack of equality in the eligibility criteria applicable for the Resettlement Schemes, which result in concerns for discrimination. Despite Government commitments, the ACRS is still not available to certain vulnerable groups within the population including religious minorities and members of the LGBT+ community, groups to which the UK Government had previously confirmed that it would support. Further, the Inspection Report identifies that the eligibility criteria, relating to protected characteristics within the Afghan community, has acted as a barrier to women and other vulnerable groups accessing the Resettlement Schemes. The JUSTICE Report corroborates this, identifying that both the ARAP and ACRS schemes fail to provide sufficiently for specific groups, including highly vulnerable groups such as women and minorities.¹⁸ Accordingly, the eligibility criteria for the Resettlement Schemes does not align with the Home Office's public sector equality duty. In its response to the Inspection Report, the Home Office committed to ensuring that all significant policy updates or developments relating to the Resettlement Schemes are subject to an EIA, but this alone does not, and will not, resolve the existing issues of equality and discrimination within the Resettlement Schemes.

The Government has a duty to disclose its performance, clarify its decision-making processes, and justify its conduct in relation to the Resettlement Schemes in an open and transparent manner. This is crucial for fostering trust among vulnerable Afghan refugees and ensuring legitimacy and confidence in the Resettlement Schemes. It is imperative that the Government upholds and protects the infrastructure for safe passage to the UK.

The Inspection Report recommended that the Home Office should set up an Afghan resettlement schemes working group to engage with stakeholders, the voluntary sector, NGOs and Afghan community groups to provide updates and seek feedback and lived experience in order to continuously improve Home Office case-working¹⁹. We strongly welcome this recommendation.

In its response to the Inspection Report, the Home Office accepted the recommendation, but apparently chose to implement it via the inclusion of the Resettlement Schemes as part of the

¹⁷ The Refugee Council Report, page 9.

¹⁸ The JUSTICE Report, page 3.

¹⁹ Recommendation 9 of the Inspection Report, page 8.

Resettlement Stakeholder Engagement Group (RSEG) to enable the groups listed above to provide updates and feedback to improve case-working. However, we remain concerned that the Home Office's proposed approach will not sufficiently implement the recommendation made in the Inspection Report.

The recommendation is for the Home Office to actively seek out feedback and to engage with the aforementioned groups in an endeavour to proactively improve its case-working systems, not simply to provide an alternate avenue for the submission of feedback. The Inspection Report noted that the Home Office stated that "[t]here is no feedback sought from a caseworking perspective". The purpose of the recommendation was to rectify this issue. This could be achieved either through the creation of a new working group to serve this purpose, or through systematic changes in the operation of the RSEG, but the mere inclusion of the Resettlement Schemes within the RSEG is inadequate.

The recommendations made in this letter are targeted towards resolving the serious shortcomings in the Resettlement Schemes and to improve their efficiency and accessibility.

We congratulate the PM on his recent election to office.

In doing so we know that there is much to be done, and there will be many demands upon your Government's time.

However, we ask on behalf of the Afghan Community, many of whom have been left waiting for far too long in extremely precarious situations that they are not forgotten; and that the promises made are now upheld.