



Neutral Citation Number: [2022] EWHC 1545 (Admin)

Case No: CO/32/2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17 June 2022

Before :

MRS JUSTICE LANG DBE

Between :

THE QUEEN

Claimant

on the application of

KBL

- and -

- (1) SECRETARY OF STATE FOR
THE HOME DEPARTMENT**
**(2) SECRETARY OF STATE FOR FOREIGN,
COMMONWEALTH AND
DEVELOPMENT AFFAIRS**
(3) SECRETARY OF STATE FOR DEFENCE

Defendants

Sonail Naik QC, Maria Moodie and Maha Sardar
(instructed by Wilsons LLP) for the Claimant

**Lisa Giovannetti QC, Edward Brown QC and Hafsah Masood (instructed by the
Government Legal Department) for the Defendants**

Approved Judgment

Mrs Justice Lang :

1. The Claimant (“KBL”) applies for an order for further information from the Defendants, pursuant to CPR r. 18.1, in respect of her claim for judicial review of the First Defendant’s (“SSHD”) refusal to accept as valid or consider her application for a visa to enter the United Kingdom (“UK”) Leave Outside the Rules (“LOTR”).

Factual background

2. KBL is a prominent women’s rights activist and human rights defender in Afghanistan. She was also a high-ranking Afghan government official, until the overthrow of the Afghan Government by the Taliban in August 2021. In these proceedings, it is not in dispute that she is now at risk of death or serious harm at the hands of the Taliban. In my judgment in *R (S) v Secretary of State for Foreign and Commonwealth and Development Affairs and Ors* and *R (AZ) v Secretary of State for the Home Department and Ors* [2022] EWHC 1402 (Admin), I found that there was credible evidence of the continued threat posed by the Taliban to those perceived as associated with the previous government and its institutions, and to women in the public sphere, whom the Taliban perceive as transgressing their cultural and religious mores (at [27]).
3. KBL has a Bachelor’s degree in law and a Master’s degree in international law. Her career can be divided into two distinct areas; firstly, as a prominent women’s rights activist and human rights defender and secondly as a high-ranking anti-corruption Afghan government official.
4. Between 2004 and 2019, KBL was the Women Rights Unit Team Leader at the Afghanistan Independent Human Rights Commission (“AIHRC”) Mazar-i-Sharif regional office. The UK was a leading donor to the AIHRC, which was established pursuant to the new Afghan Constitution. By appointment of the Director of AIHRC, KBL was also 1 of only 12 Representatives of the High Commission for the Prevention of Violence against Women for Northern Afghanistan. For over a decade, KBL has also been a prominent member of the Anti-Violence against Women Network in Afghanistan which sought closer cooperation between government and non-government agencies in combating violence against women. Domestically and internationally KBL is considered to be a leading expert on women’s rights in Afghanistan, as evidenced by her contribution to high-level domestic and international conferences on women’s rights. Recent examples include meetings with President Karzai and the US Ambassador, presentation of the report on Afghanistan to the National Inquiry into rape and honour killings, and her contributions to international conferences in Thailand, Tajikistan and Indonesia.
5. KBL has participated in many radio and television interviews, some of which remain available on the website “YouTube”, and published articles on topics such as child marriage, forced marriage and rape. She is widely known across Afghanistan by both name and sight and therefore easily identifiable to the Taliban. At all material times, this work and activism was dangerous and contrary to Taliban ideology and resulted in KBL receiving direct threats from the Taliban.
6. From 2019, KBL became a high-ranking government official charged with tackling corruption within the civil service. In her role at the Independent Administration

Reform and Civil Service Commission (“IARCSC”) KBL was the only female Director amongst a number of Balkh government officials. Whilst in post and subsequently she received numerous direct threats from the Taliban, some of which occurred shortly before the Taliban took control of the country in August 2021.

7. KBL is aged 44, and is a widowed single mother of two dependent adult children; aged 18 and 21 years old. The family is in hiding from the Taliban. They managed to temporarily flee to Pakistan in January 2022 but, through fear of being apprehended by Pakistani authorities and returned into the custody of the Taliban after the expiry of their temporary visas on 25 March 2022, they returned to Afghanistan.
8. On 20 October 2021, KBL submitted an application for relocation to the UK under the Afghan Relocation and Assistance Policy (“ARAP”). On 29 March 2022 the Defendants refused KBL’s ARAP application but subsequently, on 20 April 2022, retracted the refusal decision. A fresh decision is awaited.
9. On 29 October 2021, KBL also applied for leave to enter the UK under LOTR and the Afghan Citizens Resettlement Scheme (“ACRS”). In a decision dated 13 December 2021, maintained on 24 December 2021, the SSHD refused to treat her application for LOTR as valid because it was attached to an ARAP application, and the requirement for biometric testing could not be met in Afghanistan as the British Embassy was closed. Afghans who were not able to travel to other countries for biometric testing were advised not to make applications as they would not be considered, save in exceptional circumstances.

The issues in the claim

10. KBL relies on three grounds of challenge.

Ground 1

11. Under Ground 1 KBL alleges:
 - i) an unlawful and irrational refusal by the SSHD to accept and consider her LOTR application as valid in breach of the applicable LOTR policy (v. 1.0, 27 February 2018);
 - ii) a failure to enable the provision of biometrics in Pakistan or to defer the provision of biometrics before an in-principle decision is taken;
 - iii) adoption of an overly rigid and unreasonable alternative procedure that unfairly excludes KBL from consideration for LOTR.

Ground 2

12. KBL alleges that there has been an unlawful and unreasonable inconsistency and arbitrariness in the treatment of similarly situated individuals, both during and after Operation Pitting, with those for whom influential individuals were lobbying being treated differently or advantageously to others. The SSHD acted in breach of KBL’s

legitimate expectation. The Defendants unlawfully operated an unpublished policy for the LOTR scheme.

Ground 3

13. KBL challenges the SSHD's unlawful and unreasonable refusal to exercise her discretion to relocate her to the UK, in the light of Grounds 1 and 2.
14. The term "Pitting LOTR" is used to describe the criteria adopted by the Defendants for selecting individuals for emergency evacuation during Operation Pitting in August 2021 (see the witness statement of Mr Hall at paragraphs 20 and 21).

The history of the Part 18 application

15. On 10 March 2022, KBL first sent a Part 18 request to the Defendants.
16. On 18 March 2022, Swift J. deferred determination of the Part 18 application until after the Defendants had filed and served their Detailed Grounds of Defence ("DGD") and evidence.
17. On 25 April 2022, a repeated Part 18 request was sent, following receipt of the Defendants' DGD and evidence on 22 April 2022. This comprised 3 of the original 5 questions that remained unanswered, and not addressed in the Defendants' evidence.
18. On 27 April 2022 the Defendants replied stating:

"The Defendants' Detailed Grounds of Defence and evidence provide your clients and the Court with sufficient evidence pursuant to the duty of candour. Practice Direction 18 ... indicates that requests should be "strictly confined to matters which are reasonably necessary and proportionate to enable the first party to prepare his own case or to understand the case he has to meet" (1.2). My clients have provided detailed evidence which is sufficient for these purposes."
19. On 4 May 2022, a composite Part 18 request was made on behalf of S, AZ and KBL.
20. On 13 May 2022, KBL made an application under CPR Part 18 r.1 for an order requiring the Defendants to provide the information sought in the Part 18 request dated 4 May 2022.
21. On 17 May 2022, KBL's substantive hearing was adjourned in order for the Defendants to respond to the outstanding Part 18 request. The other Claimants S and AZ, whose claims were listed to be heard together with KBL's claim on 17 May 2022, did not wish their hearings to be adjourned and so did not pursue the Part 18 request.
22. On 17 May 2022, the Claimant sent a revised version of her Part 18 request to the Defendants. On 25 May 2022, the Defendants provided their response.

23. On 7 June 2022, I gave directions for both parties to file and serve written submissions in support of their respective positions on the Part 18 application. I ordered that the application be determined on the papers, rather than at an oral hearing, to further the overriding objective of dealing with the case expeditiously and efficiently, and saving costs.
24. Further to the publication of the House of Commons Foreign Affairs Committee Report “Missing in action: UK leadership and the withdrawal from Afghanistan”, on 24 May 2022, KBL’s solicitors wrote to the Defendants requesting them to review their compliance with the duty of candour. A table was appended to the letter referencing the sections of the report that were said to relate to KBL’s challenge. On 8 June 2022, the Defendants replied stating that the Report was subject to parliamentary privilege and was inadmissible in these proceedings. They added that they were satisfied that they had complied with their duty of candour. Although both parties refer to this request in their submissions, it is not part of any application before the Court and I have not been provided with the Claimant’s request or the Defendants’ response. In those circumstances, I do not propose to consider it further.

The law

25. CPR r. 18.1 provides:

“Obtaining further information

(1) The court may at any time order a party to—

- (a) clarify any matter which is in dispute in the proceedings; or
- (b) give additional information in relation to any such matter,

whether or not the matter is contained or referred to in a statement of case.

(2) Paragraph 1 is subject to any rule to the contrary.”

26. CPR 18 is supplemented by PD 18 which provides, at paragraph 1.2, that a request should be strictly confined “to matters which are reasonably necessary and proportionate” to enable a party “to prepare his own case or to understand the case he has to meet”.
27. Requests for further information which are merely “fishing expeditions” will not be allowed. The White Book at 18.1.3 cites the “fundamental” definition of a fishing expedition in *Hennessy v Wright (No. 2)* (1888) 24 QBD 445 as “being a request for information in which a party is trying to see if they can find a case, either of complaint or defence, of which they know nothing or which is not yet pleaded”.
28. It is not part of the function of Part 18 to enable parties to elicit information which might uncover further claims or matters that might be disputed in the future (*Trader Publishing Ltd v Autotrader.Com* [2010] EWHC 142 (Ch)).

29. In *R (Bredenkamp) v Secretary of State for Foreign and Commonwealth Affairs* [2013] EWHC 2480 (Admin), Dingemans J. held that, in the context of judicial review, if the court is required to determine a contested application for further information it should only direct that information should be provided when it is necessary to do so in order to resolve the matter fairly and justly. Part 18 requests should remain exceptional in judicial review to avoid time-consuming and expensive interim steps.
30. In my judgment, in considering what matters are “reasonably necessary and proportionate” in order to resolve a matter fairly, the Court may properly have regard to the context in which the application under CPR r.18.1 is made. Here the context is a claim for judicial review, in which a duty of candour applies, unlike private law proceedings.
31. As Lord Walker held in *Belize Alliance of Conservation Non-Governmental Organisations v Department of the Environment* [2004] UKPC 6, at [86]:

“It is now clear that proceedings for judicial review should not be conducted in the same manner as hard-fought commercial litigation. A respondent authority owes a duty to the court to cooperate and to make candid disclosure, by way of affidavit, of the relevant facts and (so far as they are not apparent from contemporaneous documents which have been disclosed) the reasoning behind the decision challenged in the judicial review proceedings.”
32. Laws LJ explained in *R (Quark Fishing Ltd) v Secretary of State for Foreign and Commonwealth Affairs* [2002] EWCA Civ 1409, at [50]:

“[T]here is ... a very high duty on public authority respondents, not least central government, to assist the court with full and accurate explanations of all the facts relevant to the issue the court must decide.”
33. The importance and scope of the duty of candour was considered by Lord Woolf CJ in *Lancashire County Council v Taylor* [2005] EWCA Civ 284, at [60]:

“Departments of state need...to bear in mind that they have an advantage in this field. They have access to materials to which other parties have no access or which it would be difficult and expensive for them to search out. But axiomatically an exercise of this kind, if it is to be carried out at all, must disclose the unwelcome along with the helpful.”
34. The court must not be left guessing about some material aspect of the decision-making process (per Singh J. in *Abraha v Secretary of State for the Home Department* [2015] EWHC 1980 (Admin), at [114]). Public authorities must necessarily draw the court’s attention to supportive as well as unsupportive material and facts: per Singh LJ in *R(Hoareau) v Secretary of State for Foreign and Commonwealth Affairs* [2018] EWHC 1508 (Admin):

“It is the function of the public authority itself to draw the court’s attention to relevant matters... to identify “the good, the bad and the ugly””, at [20];

“there is a duty on public authorities not to be selective with their disclosure”, at [21].

35. This was underlined by Singh LJ in *R (Citizens UK) v Secretary of State for the Home Department* [2018] EWCA Civ 1812, at 106(4) and (5):

“(4) The witness statements filed on behalf of public authorities in a case such as this must not either deliberately or unintentionally obscure areas of central relevance; and those drafting them should look closely at the wording to ensure that it does not contain any ambiguity or is economical with the truth. There can be no place in this context for “spin”.

(5) The duty of candour is a duty to disclose all material facts known to a party in judicial review proceedings. The duty not to mislead the court can occur by omission, for example by the non-disclosure of a material document or fact or by failing to identify the significance of a document or fact.”

36. There is no separate procedure under the CPR for enforcing the duty of candour. Applications under Part 18 are one of the ways in which a claimant may legitimately seek to give effect to the duty of candour owed by a public authority, along with applications for specific disclosure of documents, where appropriate.

Part 18 Requests

37. I set out below KBL’s requests, the Defendants’ responses, and my conclusions on whether an order should be made.

Outstanding questions from KBL’s original Part 18 request

Question 1

38. **Request** *Please confirm whether, during Operation Pitting the Home Secretary intervened and promised evacuation under ARAP or LOTR to a group of 7 people, said to be women's rights activists whose case was supported by senior executives at Sky News (made originally with reference to the statement of Mr. R. Marshall paragraph 177 but maintained now in any event).*

39. **Response dated 27 May 2022:** *The Claimant is not entitled to this information.*

Response dated 15 June 2022: *A reasonable and proportionate search has been conducted. No record has been found to confirm that the Secretary of State “personally intervened” in the way described. There is no further information to provide.*

40. **Conclusions** In my judgment, it is reasonably necessary and proportionate for KBL to seek further information regarding the treatment of relevant comparators, as it goes to the heart of her claim under Ground 2. KBL potentially fell within three of the cohorts approved for Operation Pitting LOTR (women’s rights activists, government officials and NGO workers) but was not identified as an eligible individual. She alleges inconsistency of treatment and arbitrary decision-making, heavily influenced by lobbying. In my view, the duty of candour requires the Defendants to disclose information which they have concerning the treatment of relevant comparators (using anonymisation to preserve confidentiality). This information is entirely within the Defendants’ knowledge and possession, and cannot otherwise be obtained by KBL. It is not a fishing expedition, since the claim is already identified and supported by some evidence. My judgment in *R (S) v Secretary of State for Foreign and Commonwealth and Development Affairs and Ors* and *R (AZ) v Secretary of State for the Home Department and Ors* [2022] EWHC 1402 (Admin), at [118] – [126], gives support to KBL’s Ground 2.
41. However, I do not consider that it is possible to go behind the Defendants’ response dated 15 June 2022 in relation to this particular question.

Question 2

42. **Request** *Please confirm whether, during Operation Pitting, any Afghan Human Rights Organisation and its staff appeared on an evacuation list for evacuation under ARAP or LOTR (a list which also included, inter alia, the Afghan Women's Football Team) and that at some stage the Afghan Human Rights Organisation was chosen as the priority group for evacuation (made original with reference to the statement of Mr. R. Marshall paragraph 59, 111, 228 but maintained now in any event).*
43. **Response** *We do not hold data on the total number of women’s rights activists who were evacuated during Operation Pitting. For the avoidance of doubt, the Defendants do not hold any information on any organisation called the “Afghan Human Rights Organisation”.*
44. **Conclusions** I repeat my conclusions at paragraph 40. KBL worked for the AIHRC as a women’s rights team leader for 15 years. Staff from any human rights organisation would be potentially relevant comparators.
45. The request was intended to refer to any Afghan human rights organisation (though I acknowledge that the use of a capital “O” for organisation was confusing). The Defendants have restricted their response to an organisation called the “Afghan Human Rights Organisation”. The Defendants are ordered to confirm whether during Operation Pitting the staff of any Afghan human rights organisation (a) appeared on an evacuation list, and if so, (b) whether they were prioritised for evacuation at some stage.

Further Part 18 request following service of Defendants' evidence

Question 1

46. **Request** *Please confirm whether the Nowzad Animal Shelter Staff were called forward and evacuated pursuant to ARAP or Pitting LOTR and identify how these individuals met the applicable criteria, in particular in relation to making a material contribution to HMG's mission in Afghanistan.*
47. **Response** *The Claimant is not entitled to this information.*
48. **Conclusion** *Mr Hall has briefly confirmed the position in relation to the evacuation of the Nowzad Animal Shelter Staff. In my view, this is sufficient for KBL's claim. Further details are not required, as their cases are obviously not directly comparable to hers.*

Question 2

49. **Request** *Further to the evidence of Elloise Gordon (§ 5 -7) in relation to the Afghan Girls Development Football Team; a total of 128 people were granted Pitting LOTR by the SSHD post-Operation Pitting (on or around November 2021). Please confirm whether the 128 individuals were required to complete a LOTR visa application form or other form. If so, please specify which form was completed.*
50. **Response** *The circumstances concerning this request have been adequately addressed in the witness statement of Elloise Gordon. Without prejudice to the foregoing, visa application forms (specifically, the form UK Resettlement: leave to enter outside the rules) were completed on their behalf.*

This is a specific online visa application form normally used for Syrian nationals who are accepted as eligible for UK resettlement under the Syrian Resettlement Scheme. The form is not live to the general public as an applicant's eligibility for UK resettlement under the Syrian Resettlement Scheme is considered and determined by the Home Office following a referral from a third-party organisation (for example UNHCR). Since the Afghan Girls Development Football Team cohort had already been accepted as "eligible" (in the exercise of the Home Secretary's discretion: see Elloise Gordon's witness statement §§5-7), this form, which was completed on applicants' behalf by Home Office Officials, was used as a means to facilitate an entry clearance application that would lead to a visa being issued. The forms were required to be filled out as the system requires this to process an applicant's identity, generate biometric enrolment letters in order for security checks to be carried out and a visa to be issued.

51. **Conclusion** *The Claimants accept that this question has been answered. It is included here because of its relevance to Question 3.*

Question 3

52. **Request** *Please disclose how many others have been granted Pitting LOTR in a similar post-Operation Pitting context, including details of their profiles, and if so whether they were required to complete a visa application/ LOTR form?*
53. **Response** *The Claimant is not entitled to this information.*
54. **Conclusion** In submissions, the Defendants contend that this request is unreasonably wide and vague, and it is also “fishing”. I disagree, and I wonder whether the Defendants have misunderstood the request. The Defendants’ pleaded case at paragraphs 10, 57 and 61 of the Detailed Grounds of Defence is that Pitting LOTR was exceptional, it was only in use during the emergency evacuation period, and so is not available now to KBL and others. However, the treatment accorded to the Afghan Girls Football team in November 2021 indicates that was not universally the case. This question relates to what is likely to be a discrete and easily identifiable cohort of persons from Afghanistan who were granted entry to the UK after the end of Operation Pitting on 28 August 2021, but applying Pitting LOTR criteria. It is relevant to the issues raised in Ground 2, namely, inconsistent treatment, and the lawfulness of the SSHD’s decision-making.
55. Therefore I have ordered the Defendants to respond to this simplified version of the question: “By reference to the evacuation of the Afghan Women’s Football Team considered under Question 2, please disclose brief anonymised details of any others who have been granted Pitting LOTR in a similar post-Operation Pitting context, indicating whether they were required to complete a visa application/ LOTR form”.

Question 4

56. **Request** *Please confirm the total number of women’s rights activists who were evacuated during Operation Pitting, identifying whether they were evacuated under ARAP or LOTR and provide details of their profiles and specifically their links/ association to HMG’s mission in Afghanistan.*
57. **Response** *We do not hold data on the total number of women’s rights activists who were evacuated during Operation Pitting. The Claimant is not entitled to the personal information requested which may identify individuals.*
58. **Conclusion** I repeat paragraph 40 above on the relevance of comparators to KBL’s claim. Even if the Defendants cannot confirm the total number of women’s rights activists, they can draw up a schedule of individuals whom they can identify. Mr Hall has explained in his witness statement dated 22 April 2022 that lists of women’s rights activists were drawn up for evacuation. There will be records of those who were successfully evacuated and granted ARAP or LOTR. The confidentiality of individuals can be protected by anonymisation, and editing of the profile provided to avoid indirect identification.
59. I have revised the question to read as follows: “Please provide brief anonymised details of the women’s rights activists who were evacuated during Operation Pitting,

identifying whether they were evacuated under ARAP or LOTR and specifically their links/ association to HMG's mission in Afghanistan”

Question 5

60. **Request** *Please confirm the total number of women's rights activists (i) who were called forward but were unable to be evacuated during Operation Pitting and (ii) who have since entered the UK and been granted LOTR and/or a visa pursuant to ACRS.*
61. **Response** *As under question 4.*
62. **Conclusion** I repeat paragraph 58 above. My conclusion is essentially the same as under question 4. I have revised the question to read: “Please provide brief anonymised details of the women's rights activists (i) who were called forward but were unable to be evacuated during Operation Pitting and (ii) who have since entered the UK and been granted LOTR and/or a visa pursuant to ACRS.”

Question 6

63. **Request** *Further to the evidence of Philip Hall (§18), the MoD assisted the FCDO in compiling lists of individuals to be evacuated under the Pitting LOTR cohorts, please confirm (i) the criteria used to identify Afghan government officials eligible for Pitting LOTR, (ii) how many of these were women, (iii) how many of them were Director level or above, and (iv) how many of them worked in the field of anti-corruption efforts.*
64. **Response** *Philip Hall's witness statement dated 22 April 2022 (together with the clarification provided in his witness statement dated 24 May 2022) explains the criteria used. The further information sought is irrelevant to the claim.*
65. **Conclusion** I repeat paragraph 40 above. KBL was a high-ranking government official, working on tackling corruption within the civil service. She was the only female Director in the Balkh government. “Government officials” were an approved eligible cohort for Pitting LOTR. Gender is relevant to the “Vulnerability” criterion and anti-corruption is relevant to the “Contribution” criterion in the Pitting LOTR criteria. Mr Hall's statement does not provide sufficient information to amount to a response to this request, which fulfils the duty of candour. The Defendants should now answer this question.

Question 7

66. **Request** *Please detail what steps were taken by the Defendants to independently identify Afghan government officials eligible for Pitting LOTR (separate from the correspondence and lobbying received from MPs, officials, organisations etc).*
67. **Response** *The Claimant is not entitled to this information.*
68. **Conclusion** KBL contends this request is justified on the basis of Mr Hall's evidence, at paragraph 52 of his witness statement, that “the relevant lead formerly in the British Embassy in Kabul confirmed that she had heard of KBL's name as an activist, but

did not believe she had ever met or spoken to her”. She complains that Mr Hall fails to confirm whether this enquiry was made during or after Operation Pitting and if so, why KBL’s name was not put forward. She submits that the information relates to the Defendants’ procedure for identifying eligible individuals within approved cohorts.

69. The Defendants submit that this matter is addressed in evidence. They did not take specific steps to “independently identify” Afghan officials. Because of the lack of time, the Defendants used all available sources of information together.
70. In my view, this request is far too wide in scope. I consider it is unrealistic to expect the Defendants to provide anything more than the account given by Mr Hall in his witness statement.

Question 8

71. **Request** *Please detail all contact and links between HMG and the Independent Administration Reform and Civil Service Commission (IARCSC).*
72. **Response** *The Claimant is not entitled to this information.*
73. **Conclusion** As in the case of question 7, I consider this request is too wide in scope. I also consider it is unrealistic to expect the Defendants to provide anything more than the account given by Mr Hall in his witness statement.

Question 9

74. KBL accepts that this question has been answered.

Questions 10 and 11

75. **Question 10 Request** *Please confirm whether the commitments referred to above to the Chevening alumni is premised on their identification as an approved priority cohort during Pitting LOTR.*
76. **Question 10 Response** *The Claimant is not entitled to this information.*
77. **Question 11 Request** *In Exhibit TG/1, the Home Office indicate that former Chevening Scholars would be entitled to qualify under the published ARAP. Please can you confirm why such an individual would qualify under ARAP rules and/or policy at the time of Operation Pitting and now.*
78. **Question 11 Response** *The Claimant is not entitled to this information.*
79. **Question 10 and 11 Conclusion** The Defendants submit that evacuation decisions regarding the Chevening scholars are irrelevant because the KBL’s characteristics are not comparable to theirs. However, KBL relies on a more nuanced point (set out in the composite request on 4 May 2022), namely, that Chevening scholars were an identified Pitting LOTR cohort, as were women’s rights activists and government officials, but Chevening scholars are the only cohort currently eligible under ACRS and are entitled

to qualify under ARAP. In my judgment, this is a significant difference in treatment which the Defendants ought, at the very least, to explain, to comply with their duty of candour. I have slightly revised the wording of the requests in the order, in the interests of clarity.

Question 12

80. **Request** *Please provide details of all links and association between the British Embassy in Kabul/FCDO's work in Afghanistan and the Afghanistan Independent Human Rights Commission (AIHRC) for which the Claimant worked for 15 years.*
81. **Response** *The Claimant is not entitled to this information.*
82. **Conclusion** *In my view, this request is unreasonably wide, and it is unrealistic to think that the details can be obtained without great difficulty, given that the British Embassy in Kabul has had to leave Afghanistan.*

Question 13

83. **Request** *Exhibit TG/2 "You should be clear that in order for these new cohorts to be evacuated into the UK will depend largely on MOD/FCDO on the ground to contact these newly eligible cohorts and process them so we can then complete case working tasks and relevant security checks." What, if any, guidance, process, procedure and/or information strategy was put in place to assist local staff in Afghanistan to identify potential persons eligible for Operation Pitting LOTR?*
84. **Response** *The Claimant is not entitled to this information and this request does not relate to any aspect of the Defendants' pleaded cases.*
85. **Conclusion** *Exhibit TG/2 is a memorandum submitted to the Home Office, dated 18 August 2021, which is exhibited to Mr Greig's witness statement. The passage quoted relates to procedures during Operation Pitting for evacuations. In my view, the process is adequately described in the witness statements which have already been filed by the Defendants, and this request goes beyond what is reasonably necessary for KBL to pursue her claim.*

Questions 14 and 15

86. KBL accepts that these requests have been answered.

Question 16

87. **Request** *Is there is any internal guidance to decision makers now as to how to approach LOTR decisions from Afghanistan?*
88. **Response** *The Defendant listed the relevant guidance.*

89. **Conclusion** KBL's only outstanding query was whether there was any other internal guidance. The Defendants have now confirmed that there is no other guidance. Therefore this question has been answered.

Question 17

90. **Request** *Further to the evidence of Philip Hall at §46 and at Exhibit PH/3, the Defendants confirmed that 13 members of the Afghan Judiciary "have been relocated to the UK under ARAP (some were sponsored by FCDO, others by MOD). [Exhibit PH/3]: Please confirm what is meant by the relevant judge "worked at a court which received support from the UK Government".*
91. **Response** *The Claimant is not entitled to this information.*
92. **Conclusion** This question related to the claims made by S and AZ who were judges. It is not relevant to KBL's claim.

The order

93. The order reflects my findings as set out above. It requires the Defendants to respond to the outstanding questions in 14 days from the date of service. The reason for the relatively short period of time allowed is that the hearing is listed for 15 July 2022, and revised skeleton arguments are due to be filed before then.