



An inspection of the use of deprivation of citizenship by the Status Review Unit

April – June 2023

David Neal

Independent Chief Inspector of
Borders and Immigration

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Foreword

Deprivation of citizenship legislation contains some of the most far-reaching powers available to the Home Secretary. Although enshrined in legislation for over 100 years, these powers have been relatively dormant until piecemeal changes to legislation led to an increase in their use over the last 20 years.

Volumes of deprivations are relatively low compared to decisions made in other Home Office caseworking teams, and the majority of those receiving deprivation orders are not removed from the UK.

I have focused this inspection on the Status Review Unit (SRU) which deals with the majority of deprivation cases and where fraud or serious organised crime are the main factors for deprivation consideration. Alongside this team, the Special Cases Unit (SCU) manages a small cohort of deprivation cases involving subjects of national security interest. I chose during the scoping phase to place SCU out of scope for this inspection. I am now much better informed of the preliminary moves I will need to make if I am to effectively inspect this particularly sensitive area of the Home Office in the future.

This inspection found SRU decision makers were knowledgeable, engaged, and felt supported in their work. A dedicated training team was in place to ensure a solid foundation and follow-up training provisions for staff. Decision makers conducted thorough investigations and issued well-written decision notices. SRU's record of having its deprivation decisions upheld on appeal was good, and the team had feedback loops in place to ensure learning from appeal outcomes. This is an area of the Home Office that is working well.

There was room for improvement in some areas. Data recording and case management were found to be an issue. More could be done here to reduce data errors and ensure that cases are managed and stored in an orderly and secure manner. I was pleased to see that improvements had been made in relation to work in progress (WIP) management since the last ICIBI inspection in 2017, but a greater focus on older cases would help to ensure they were not slipping through the net. A review of resourcing and benchmarks could also result in greater efficiencies and would help reduce the current WIP backlog.

This report makes four recommendations and was sent to the Home Secretary on 24 July 2023.



David Neal
Independent Chief Inspector of Borders and Immigration

1. Key findings

- 1.1** Responsibility for deprivation casework sits mainly with the Deprivation Team within the Status Review Unit (SRU). This small, well-established team, comprising 39 staff, handles approximately 650 cases per year. Fraud considerations form the majority of those decisions, which is reflected in the higher volume of resources in this area. However, deprivation cases conducive to the public good ('conducive') are also decided by SRU where they relate to serious organised crime.
- 1.2** A separate team in the Special Cases Unit (SCU) deals with the remainder of 'conducive' cases where sensitive intelligence is relied upon to make a decision. These cases are out of scope for this inspection.

Referrals and workflow

- 1.3** A total of 2,817 referrals on fraud grounds were made between 1 January 2019 and 10 May 2023, of which 83.42% (2,350) were accepted for consideration and 16.58% (467) rejected. His Majesty's Passport Office (HMPO) was the main source of referrals (47%), followed by cases referred internally by SRU and the Home Office's Nationality Team.
- 1.4** Processes for referring cases to SRU's Deprivation Team were clear and staff demonstrated a good understanding of the acceptance criteria. Where a decision could not be made to accept or reject a case, further information was requested. Supporting evidence, such as birth certificates and passport application data, were critical to the successful acceptance of a case.
- 1.5** Good working relationships with key referring partners HMPO, the National Crime Agency (NCA), and the Home Office Nationality Team had led to improvements in the referrals process and a better understanding of the types of cases that met the criteria for deprivation. Referring partners were satisfied that a case could be prioritised, if needed, but there was frustration with delays in decision making. No formal guidance was available to partners, nor were there any published timelines for handling cases.
- 1.6** Inspectors found errors in the recording of referrals, which could have been easily resolved with better data management. Improvements in this area would help to identify and monitor any trends in reporting and support the planned activity to increase referrals from other agencies.
- 1.7** Significant discrepancies were noted between data reported by the Performance Reporting and Analysis Unit (PRAU) and that used by the Deprivation Team. As of 30 April 2023, PRAU reported 616 fraud cases in the work in progress (WIP) hold awaiting a decision. However, manual records held by the Deprivation Team indicated this figure was 1,084, representing a 55.06% difference between the two reports. At the time of writing, updated returns from PRAU indicated that these discrepancies had reduced significantly, and figures were more closely aligned.

- 1.8** Improvements in WIP management had been noted since the ICIBI completed ‘An inspection of the review and removal of immigration, refugee and citizenship status’ in 2017, and team leaders had a good understanding of workloads.¹ Again, errors were noted in data recording and inspectors were told that some cases had “slipped through the net” resulting in significant delays in allocation and decision making.

Decision making

- 1.9** Decision makers had a good understanding of the factors to consider when making a deprivation decision and produced detailed, good-quality decision notices. Ethical decision making was embedded in caseworking, and staff felt supported by fellow team members and managers.
- 1.10** Home Office guidance is clear that the decision to deprive citizenship is separate from the decision to remove a person from the UK. However, despite the inclusion of explanatory wording in decision notices and case law relating to this issue, the Home Office continues to lose some deprivation appeals on Article 8 human rights grounds. This could be in part due to a lack of awareness by the Appeals, Litigation and Administrative Review (ALAR) staff (who represent the Home Office at appeals) and their ability to argue this point. Improved communication between the Deprivation Team and ALAR may help increase the Home Office’s success rates at appeal.
- 1.11** The Deprivation Team had approximately 240 cases on hold awaiting policy decisions, a ministerial steer, or updates to IT systems. Given the significant delays faced by individuals in these cohorts of cases, inspectors felt more could be done to ensure a state of readiness for caseworking once the blockages are cleared.
- 1.12** Inspectors found a lack of clarity over the benchmarks for decision makers. It was not clear how the expected target of 1.1 decisions per week had been set, and staff could not provide a clear explanation as to how they measured 1.1 cases. Decision makers manage a mixture of cases, some more straightforward than others, and arguably a decision to retain citizenship should be dealt with more quickly and easily than a decision to deprive. A review of benchmarks would be helpful as an increase in decisions would lead to greater outputs and a reduction of the WIP.
- 1.13** Inspectors found that older cases which had been bulk migrated to SharePoint were not well organised, creating the potential for confusion and reducing efficiency. There were, however, some improvements noted in cases that had been generated more recently (since 2020), where a structured approach to record keeping had been introduced.
- 1.14** The use of multiple caseworking systems (Case Information Database (CID) and Atlas), in addition to case handling on SharePoint and record keeping on local spreadsheets, painted a confusing picture.² Decision makers were reliant on SharePoint for storing investigation data, as they did not consider Atlas suitable for all aspects of deprivation casework. This was due to Atlas being based on cases involving an application being submitted, rather than investigative caseworking. SharePoint provided a convenient solution to document management but raised some concerns over access for staff outside of the Deprivation Team and the ease with which documents could be altered or deleted.

¹ Independent Chief Inspector of Borders and Immigration, ‘An inspection of the review and removal of immigration, refugee and citizenship “status” (April – August 2017)’, published 30 January 2018, <https://www.gov.uk/government/publications/report-on-the-review-and-removal-of-immigration-refugee-and-citizenship-status>

² CID is a cross Home Office immigration casework and reference tool that is currently being phased out and replaced by Atlas, the department’s new immigration casework IT system.

1.15 SRU is also currently dealing with a small number of ‘conductive’ cases involving serious organised crime. Caseworkers handling these cases had not made the switch to Atlas, which was concerning as SRU will lose access to CID in September 2023.³ Caseworkers reported similar issues, as Executive Officer (EO) decision makers, with Atlas, which they felt was currently unsuitable for processing ‘conductive’ cases. Caseworkers had fed back their specific requirements to the Atlas team and were hopeful that their recommendations had been accepted. However, they were not aware when these changes would be implemented.

Quality assurance, post-decision work, and appeals

1.16 Quality assurance of decisions was taking place, and targets of conducting two quality assessments per decision maker each quarter were exceeded. Results indicated that 91.55% of decisions made between 1 April 2022 and 31 March 2023 met the ‘expected’ or ‘accepted’ standard.

1.17 Staff told inspectors that where a decision maker did not meet the accepted standard, follow-up conversations took place and support was offered to help deliver improvements in performance.

1.18 A Post-Decision Team, within the Deprivation Team, has responsibility for monitoring cases once a decision to deprive on fraud grounds has been made. The team’s duties include checking for receipt of appeals, monitoring appeals progress through to conclusion, serving deprivation orders, considering any Article 8 grants, and feeding outcomes of cases back to team members.

1.19 There is no automated process to track appeals, which meant the team were manually checking cases in their WIP. At the time of the inspection, the WIP contained approximately 450 cases, but due to the cumbersome process of making manual checks the team had an aspiration to check only 50 of these cases each week. Staff told inspectors that they were not consistently meeting this target.

1.20 Where an appeal was not received within the time limit, the service of deprivation orders was delayed for six to eight weeks to reduce the likelihood of a late appeal being accepted and the deprivation order needing to be revoked. While the rationale for delaying the service of deprivation orders provided by the Post-Decision Team appeared sensible, the size of the team’s current workload suggested that a further review of process could lead to a more effective use of resource and greater efficiencies.

1.21 The Appeals and Litigation Manager in SRU added value in terms of learning from appeal outcomes, providing feedback to staff on their cases that had been through the appeal process, and identifying gaps in policy and training. The allocation of a dedicated resource to this function showed a commitment to continuous improvement, and staff welcomed the feedback on outcomes of appeals against their decisions which was used to help inform their decision making.

Training and guidance

1.22 The Deprivation Team had an embedded training team, which offered services across the whole of SRU. Inspectors found that the training provision had improved since the 2017

³ The Home Office, in its factual accuracy response, stated that the date for decommissioning has officially changed and SRU will now lose access to CID in March 2024.

Report and team members felt they were given the appropriate training to perform their role effectively.

- 1.23** The training team displayed passion and enthusiasm for the training programme, despite not having received any formal training for their own roles. An investment into the qualifications of training staff would improve their ability to design and deliver training, awareness, and continuous personal development packages. The department should review the resourcing and role-specific training required by the training team to ensure they are equipped with the skills, knowledge, and resources to meet the needs of the department.
- 1.24** A positive and supportive culture was evident among team members, and staff volunteered to support each other through mentoring, training delivery, sharing experiences, and providing advice when required.
- 1.25** The introduction of a learner passport to support the induction process and ongoing development was seen as good practice, and consideration should be given to sharing this with the wider business.
- 1.26** Recently issued guidance was produced by policy colleagues in consultation with the Deprivation Team, lawyers, and operational staff to ensure that it met the needs of decision makers. Inspectors found that the guidance was viewed with varying levels of interest from staff members. While some staff considered it to be a helpful resource, others were unaware of its existence or found it to be of limited use.
- 1.27** Delays in producing standard operating procedures (SOPs) and associated training to coincide with the publication of the guidance meant that cases which had been on hold for a considerable period of time (awaiting updates to legislation and guidance) could not be processed.

2. Recommendations

Recommendation 1: Data recording

Review mechanisms for recording case data to ensure that record keeping is consistent, quality assured, and it allows for proper analysis to inform planning.

Recommendation 2: Decision making

Implement a plan to manage the backlog of cases 'on hold' to ensure they are allocated and promptly case worked once 'blockers' are removed.

Recommendation 3: Decision making

Conduct a review of benchmarks and work allocations for Executive Officer and Senior Executive Officer caseworkers to ensure that the Deprivation Team is managing its resources and outputs as efficiently and effectively as possible.

Recommendation 4: Training and guidance

Review the resourcing and role-specific training required by the training team to ensure they are equipped with the skills, knowledge, and resource to meet the needs of the department.

3. Background

Deprivation of citizenship

- 3.1** The UK Government links the deprivation of citizenship powers to its key priorities of “maintaining our national security and keeping the public safe”. The Government website (www.GOV.UK) states: “Removing someone’s British citizenship, also known as deprivation of citizenship, is used against those who obtained citizenship by fraud and against the most dangerous people, such as terrorists, extremists, and serious organised criminals.”⁴
- 3.2** An individual who has been deprived of their British citizenship loses their UK immigration status and the right to vote, work, and access certain welfare services in the UK. Depriving an individual of citizenship does not necessarily result in their removal from the UK. However, if a deprivation order is served on an individual when they are overseas, they cannot re-enter the UK using a British passport.

Legislation and powers

- 3.3** The power to deprive a British national of their citizenship was first introduced in legislation passed in 1914, however current provisions are contained in section 40 of the British Nationality Act 1981 (BNA 1981) (as amended).⁵
- 3.4** The Home Secretary may deprive an individual of their citizenship if satisfied that:
- it would be conducive to the public good (section 40(2))
 - the person acquired citizenship as a result of registration or naturalisation that was obtained by means of fraud, false representation, or the concealment of a material fact (section 40(3))
- 3.5** In 2003, the BNA 1981 was extended to include the power to deprive British-born dual nationals of their citizenship. Prior to 2003, only individuals who had obtained British citizenship via naturalisation or registration could be deprived of their citizenship.
- 3.6** Under section 40(4) of the BNA 1981, a decision to deprive a person of British citizenship, on the basis that to do so is conducive to the public good, cannot be made if the Secretary of State is satisfied that the order would make a person stateless. However, section 40(4A) of the BNA 1981, added by the Immigration Act 2014, provides for the deprivation of British citizenship on conducive grounds, even if it would render a person stateless, if they have conducted themselves in a manner seriously prejudicial to the vital interests of the UK and if there are reasonable grounds for believing that the person is able to become a national of

⁴ Home Office, ‘Nationality and Borders Bill: Deprivation of Citizenship factsheet’, published 3 December 2021, updated 2 March 2022, <https://www.gov.uk/government/publications/nationality-and-borders-bill-deprivation-of-citizenship-factsheet>

⁵ British Nationality Act 1981, section 40, <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

another country or territory. An individual can be made stateless in cases where citizenship was obtained fraudulently.

- 3.7** The law prevents people who were born British (as opposed to acquiring their citizenship by naturalisation) from being deprived of their citizenship if that would render them stateless.
- 3.8** Deprivation powers have been subject to a significant amount of legislative change in recent years. Annex C provides a summary of the changes to legislation from 1981 to 2022.

Deprivation of British citizenship guidance

- 3.9** The Home Office published guidance on deprivation of citizenship on 10 May 2023 replacing earlier guidance published in 2017. A redacted version of the guidance document is available to the public on the Government website (www.GOV.UK).⁶
- 3.10** The document provides a narrative step-by-step guide for caseworkers and outlines what action is required during the decision-making process. The document focuses on:
- human rights considerations
 - deprivation on the grounds it is conducive to the public good
 - deprivation on the grounds of fraud, false representation, or concealment of material fact
 - the procedure for the service of deprivation notices and grounds for deprivation without giving notice
 - the rights of appeal against a deprivation decision
 - the role of the Special Immigration Appeals Commission

Conducive to the public good

- 3.11** Deprivation on ‘conducive’ grounds is pursued in the interests of public good because the individual’s behaviour poses a serious threat to the UK. Home Office guidance provides examples of some of the considerations that may lead to an individual to be deprived of British citizenship on the grounds that it is conducive to the public good:
- the interests of national security, for reasons relating to terrorism, hostile state activity, or any other reason
 - where the person has been involved in serious organised crime
 - where the person has been involved in war crimes, crimes against humanity, or other unacceptable behaviour
- 3.12** Deprivation of citizenship powers are used to contribute to the Government’s Serious Organised Crime Strategy published in November 2018, with the intention of causing the maximum disruption to the highest harm organised criminals.⁷ Examples of high harm offences specified in the guidance include violent or sexual crime, human trafficking, money laundering, and child sexual exploitation. The guidance notes that this is not an exhaustive list, and each case referred to the Home Office must be considered on an individual basis.

⁶ ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

⁷ HM Government, Serious Organised Crime Strategy 2018, <https://www.gov.uk/government/publications/serious-and-organised-crime-strategy-2018>

Fraud, false representation, or concealment of a material fact

3.13 Home Office guidance on deprivation of British citizenship defines false representations, concealment of material fact, and fraud as follows:

“False representation means a representation which was deliberately and dishonestly made on the applicant’s part, that is where an innocent mistake would not give rise to a decision to deprive under this provision. The false representation must have had a direct bearing on the application.

Concealment of a material fact means deliberate operative concealment, rather than an innocent omission, that is where the concealment practised by the applicant is deliberate and has a direct bearing on the application for registration or naturalisation.

Fraud encompasses either of the above.”⁸

Case handling

3.14 There are no time limits within which deprivation procedures must be initiated.

3.15 The standard of proof that applies to all deprivation cases is the balance of probabilities. In fraud cases, decision makers must be satisfied that the fraud was material to the obtaining of citizenship and that there was a deliberate intention to deceive.

3.16 All decisions to deprive a person of citizenship attract a statutory right of appeal. If the Home Secretary believes it would not be in the public interest to release the evidence behind the order, any appeals or judicial reviews will be heard in closed court at the Special Immigration Appeals Commission (SIAC).⁹

Deprivation of citizenship and nullity decisions

3.17 Caseworker guidance on nullity of citizenship states: “The concept of nullity – where a person’s citizenship is declared null and void and regarded as never having been granted in the first instance – has developed through caselaw and has no statutory basis.”¹⁰

3.18 In 2017, the Supreme Court defined nullity of British citizenship as when registration or naturalisation was obtained by impersonation of an individual who would qualify for British citizenship if they had applied for it. It is therefore considered to have never taken place. Nullity decisions cannot be appealed and can only be challenged through a judicial review process.

3.19 In addition to defining nullity, the Supreme Court ruled in the case of *Hysaj v SSHD* that fraud cases which did not meet the nullity definition, should instead have been considered under deprivation of citizenship powers.¹¹ As a result, there has been a sharp decrease in the number of nullity cases since 2017.

8 Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

9 Special Immigration Appeals Commission Act 1997, <https://www.legislation.gov.uk/ukpga/1997/68/section/2>

10 Home Office, ‘Nullity of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/nullity-of-british-citizenship-caseworker-guidance>

11 *R (Hysaj & Ors) v Secretary of State for the Home Department* [2017] UKSC 82 (21 December 2017), <https://www.bailii.org/uk/cases/UKSC/2017/82.html>

Volumes of deprivation orders

3.20 A source of frustration to many stakeholders is the limited amount of data in the public domain in relation to deprivation of citizenship cases. Figures 1 and 2 demonstrate the number of deprivation orders that have been issued for both fraud and ‘conductive’ cases and, while headline data can be found in the Home Office’s transparency data and responses to freedom of information requests, there is no further detail available on nationality, gender, or ethnicity of those involved.^{12,13}

Figure 1: Deprivation volumes for fraud and conducive to the public good deprivation orders from 2013 to 2022

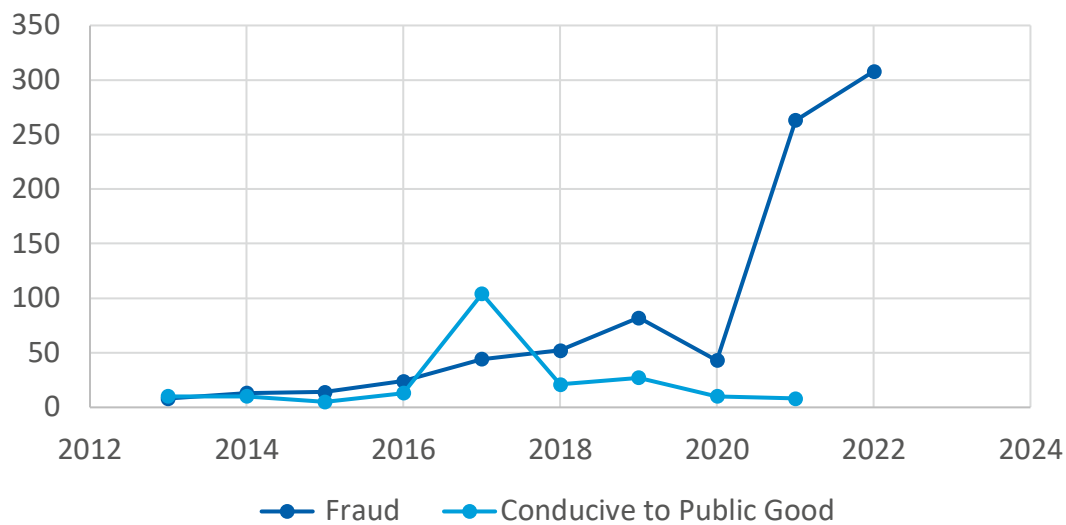


Figure 2: Breakdown of volumes for fraud and conducive to the public good deprivation orders from 2013 to 2022

| Year | Fraud | Conductive to the public good | Total |
|------|-------|-------------------------------|-------|
| 2013 | 8 | 10 | 18 |
| 2014 | 13 | 10 | 23 |
| 2015 | 14 | 5 | 19 |
| 2016 | 24 | 14 | 38 |
| 2017 | 44 | 104 | 148 |
| 2018 | 52 | 21 | 73 |
| 2019 | 82 | 27 | 109 |
| 2020 | 43 | 10 | 53 |
| 2021 | 263 | 8 | 271 |
| 2022 | 308 | Unpublished | – |

¹² Deprivation of British citizenship 2000-2022 – a Freedom of Information request to Home Office – WhatDoTheyKnow, (published 21 February 2022), https://www.whatdotheyknow.com/request/deprivation_of_british_citizensh_3#incoming-1979196

¹³ Immigration and protection data: Q1 2023, published 25 May 2023, <https://www.gov.uk/government/publications/immigration-and-protection-data-q1-2023>

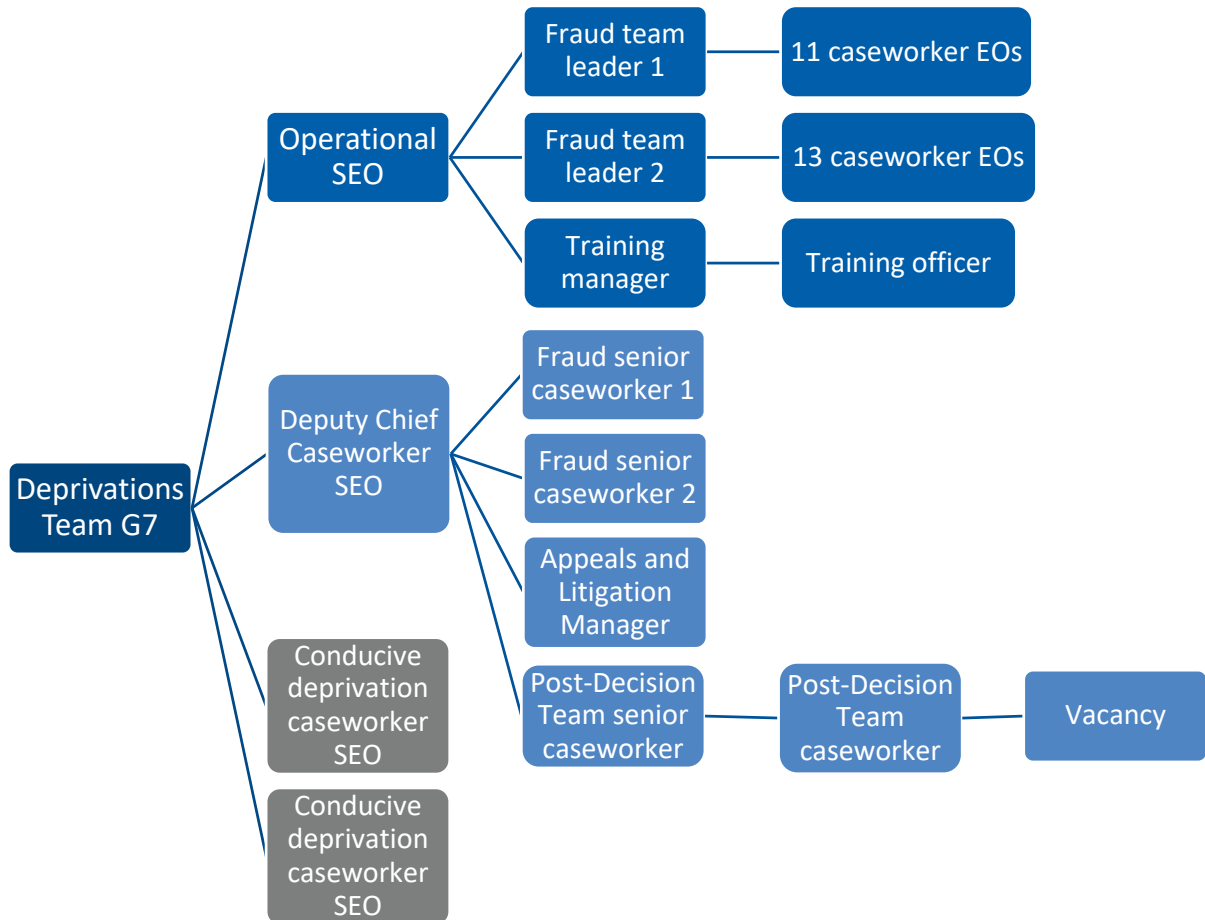
- 3.21** The ‘conductive’ data includes deprivation orders that were handled by the Special Cases Unit (SCU), as well as those concluded by the Status Review Unit (SRU). As of May 2023, the 2022 ‘conductive’ data has yet to be published.
- 3.22** As demonstrated by the data in Figures 1 and 2, the number of deprivation orders issued on the grounds that it was conducive to the public good peaked in 2017, when 104 individuals were deprived of their citizenship on that basis. This figure represents nearly half of the total number of all deprivation orders made on conducive grounds between 2013 and 2021. The 2017 peak is likely to be linked to the use of disruptive powers in connection with the fall of the Islamic State.
- 3.23** From 2021, there has been a sharp increase in the number of cases in which individuals have been deprived of their citizenship on fraud grounds. The data in Figures 1 and 2 highlight that more than two-thirds of the total number of deprivation orders, between 2012 and 2022, were issued in the last two years. For fraud-based deprivation orders, recent increases may be explained by improvements in resourcing and caseworking processes. Recent increases may also be explained by consideration of a number of cases that had previously been deemed to be ‘nullified’ and a ‘knock on’ effect of family members who also meet the criteria being identified and referred to the Deprivation Team for consideration.

Organisation structure

- 3.24** Deprivation of citizenship cases are handled by SRU and SCU within the Home Office. SRU is part of Customer Services Operations Support Services, a command within the department’s Customer Services Group. Reflecting its focus on a range of sensitive immigration cases with national security implications, SCU sits under the Home Office’s Homeland Security Group.
- 3.25** SRU is led by a Deputy Director (Grade 6) and consists of several different teams and workstreams which predominantly deal with the removal of immigration status from individuals due to fraud or a change in eligibility.
- 3.26** The Deprivation Team within SRU is led by an Assistant Director (Grade 7) and has responsibility for all fraud-related deprivation of citizenship cases. Deprivation cases being considered on conducive to the public good grounds that do not involve sensitive intelligence are also handled by the team. These cases largely relate to serious organised criminality.
- 3.27** SCU deals with the remainder of ‘conductive’ cases where sensitive intelligence is relied upon to make a decision.
- 3.28** This inspection focused exclusively on the decision-making processes and procedures of SRU’s Deprivation Team. The overwhelming majority of cases considered by the team are in relation to citizenship obtained using fraud, false representation, or concealment of a material fact.
- 3.29** As of 10 May 2023, the Deprivation Team had a headcount of 39, the majority of whom (24) are Executive Officer (EO) decision makers who consider fraud cases. Responsibility for ‘conductive’ cases in the Deprivation Team falls to two Senior Executive Officers (SEOs). There were two vacancies at EO grade.
- 3.30** The team is supported by two trainers and an Appeals and Litigation Manager who provide services across the whole of SRU. Alongside these functions, a Post-Decision Team is responsible for monitoring the progress of appeals, serving the deprivation orders and deciding

whether to grant leave to remain after any appeal rights have been concluded in all fraud deprivation casework. Figure 3 provides an overview of the Deprivation Team structure.

Figure 3: The organisational structure of the Deprivation Team



3.31 Processes for the handling of fraud and ‘conductive’ cases differ, as reflected in the grade of decision maker and levels of authorisation. Fraud cases are routinely decided by EOs and authorised by the Grade 7 head of unit, whereas conducive to the public good cases are decided by the Home Secretary. According to guidance, in such cases the Home Secretary must “determine personally whether a person’s actions are such that it is in the public interest that they are no longer a British citizen”.¹⁴

3.32 Processes for fraud and ‘conductive’ applications are depicted in Figures 4 and 5.

¹⁴ Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023 <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

Figure 4: Workflow process chart for fraud deprivation cases

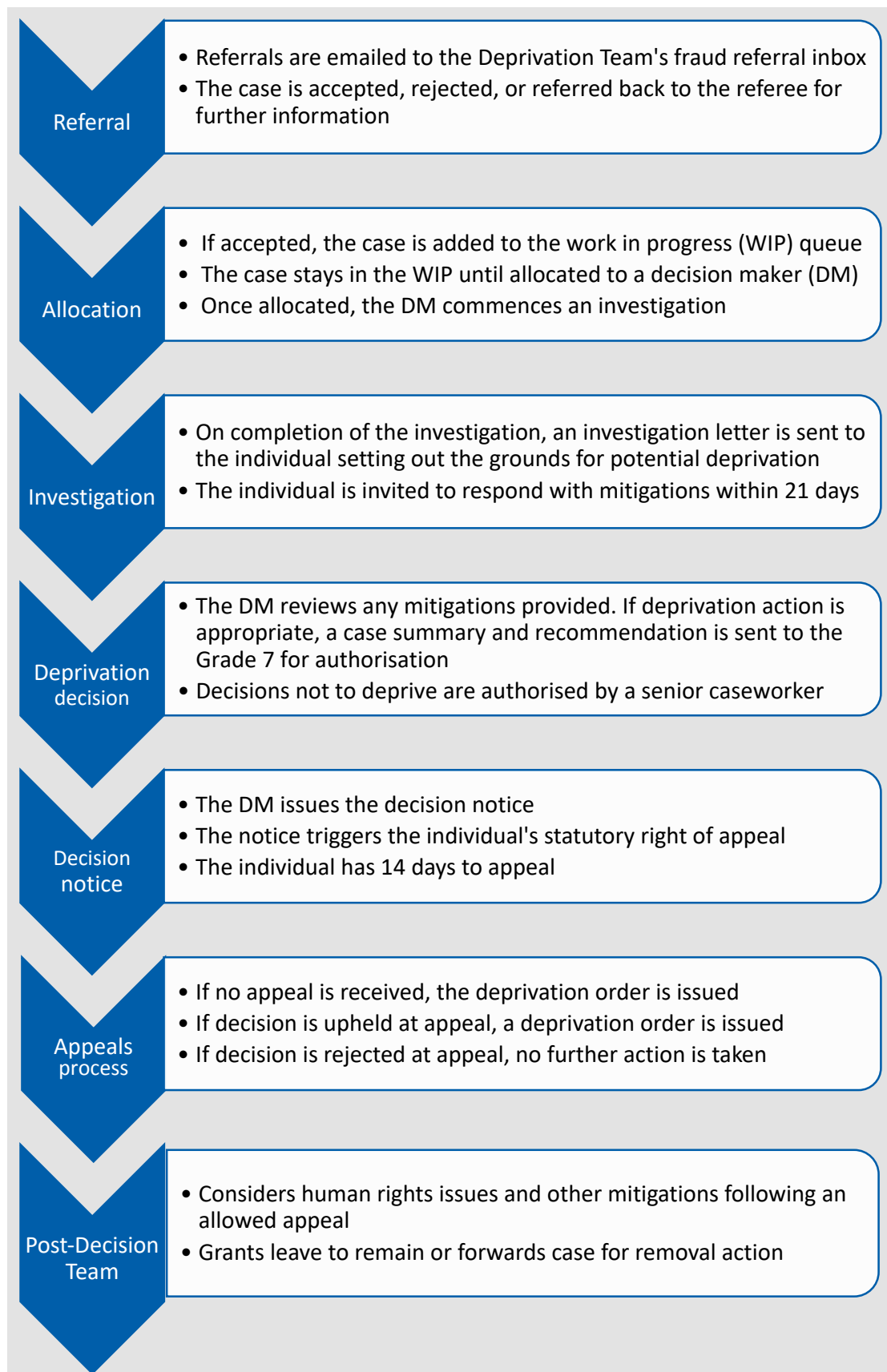
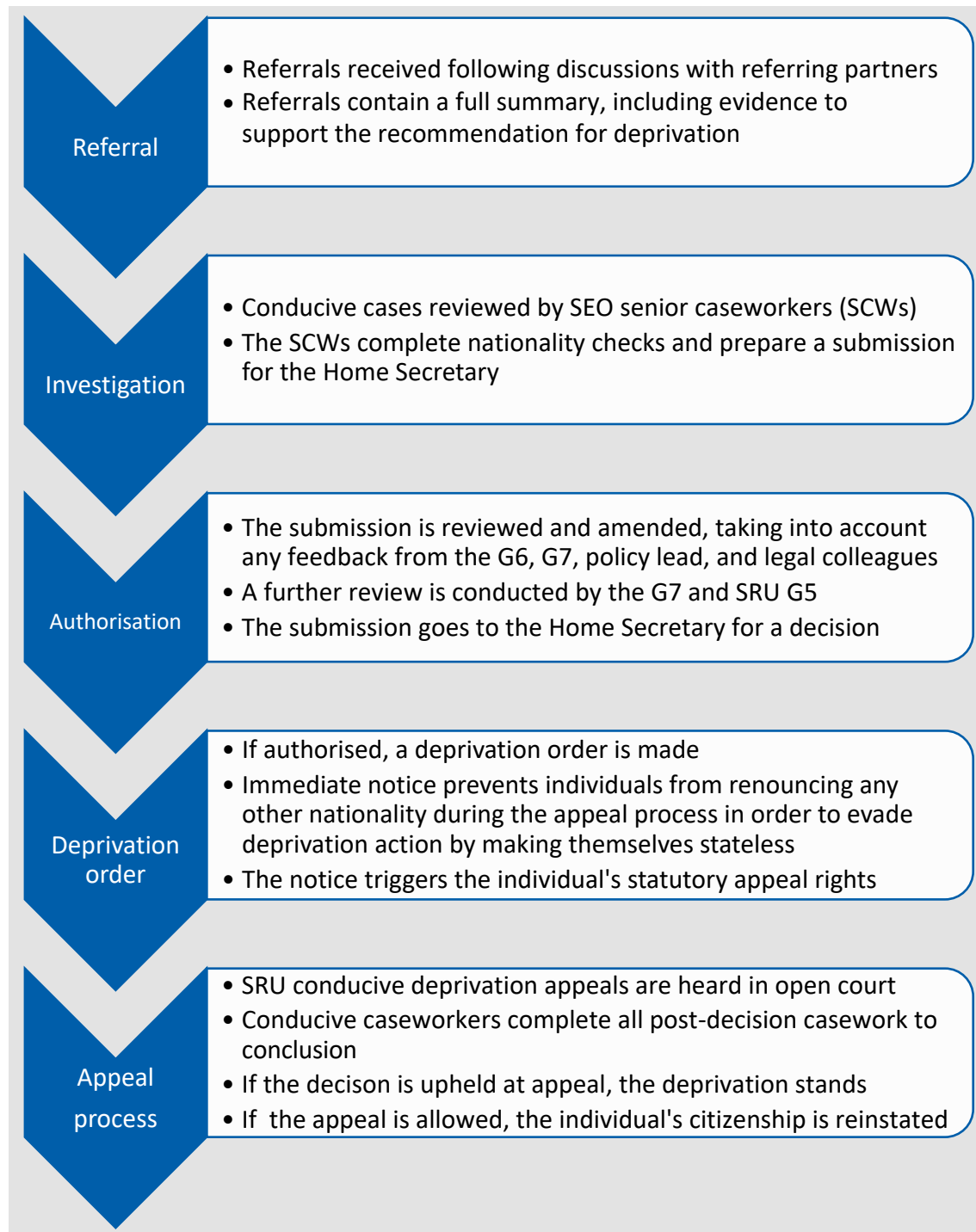


Figure 5: Workflow process chart for conducive to the public good deprivation cases



Previous ICIBI inspection

- 3.33** In 2017, the ICIBI conducted ‘An inspection of the review and removal of immigration, refugee and citizenship status’.¹⁵ The 2017 Report reviewed the work of SRU, SCU, and Criminal Casework, and was much broader in scope than this current inspection.¹⁶
- 3.34** The inspection found that “there was significant room for improvement, particularly in SRU”. Some of the key findings, of relevance to this inspection, were: that caseworkers and managers needed more clarity of purpose; that staff needed to be properly trained and supported; that caseloads needed to be reviewed, with realistic performance targets fairly applied across all team members; and that improvements were required to ensure a better understanding of cases in the WIP queue.
- 3.35** The report made five recommendations, of which four were accepted and one was partially accepted. At the time of the current inspection, the Home Office advised inspectors that all of the recommendations had been actioned by the Home Office.

¹⁵ Independent Chief Inspector of Borders and Immigration, ‘An inspection of the review and removal of immigration, refugee and citizenship “status”’ (April – August 2017), published 30 January 2018, <https://www.gov.uk/government/publications/report-on-the-review-and-removal-of-immigration-refugee-and-citizenship-status>

¹⁶ Criminal Casework is now the Foreign National Offenders Returns Command (FNORC).

4. Scope and methodology

- 4.1** This inspection examined the management of deprivation of citizenship cases by the Home Office’s Status Review Unit (SRU), focusing on the referral and progressing of cases, quality assurance, training, and guidance.
- 4.2** The inspection scope excluded deprivation of citizenship cases managed by the Special Cases Unit (SCU).
- 4.3** The inspection was informed by ICIBI’s expectations (see Annex B).
- 4.4** Inspectors undertook the following activities:
- reviewed publicly available information about deprivation of citizenship
 - participated in a familiarisation session with SRU on 28 April 2023
 - met with stakeholders, including academics, researchers, and legal advisors
 - formally notified the Home Office of the inspection on 5 May 2023 and submitted a request for evidence
 - reviewed and analysed evidence provided by the Home Office
 - conducted a dip sample of 14 deprivation cases
 - attended SRU offices in Liverpool and observed administrative and workflow functions
 - conducted 19 interviews and focus groups with staff and teams involved directly and indirectly with deprivation of citizenship work
 - spoke with SRU stakeholders, including the National Crime Agency, His Majesty’s Passport Office, the Home Office Extradition Team, and the Home Office Nationality Team
 - on 1 June 2023, provided a debrief to senior SRU managers on observations from the onsite phase of the inspection
- 4.5** The Independent Chief Inspector visited SRU and SCU in Liverpool, on 24 May 2023.

5. Evidence analysis: case referrals and workflow

ICIBI expectations

- 5.1** The ICIBI expects that processes should be simple to follow and transparent. They should be IT-enabled and include input formatting to prevent users from making data entry errors. Mandatory requirements, including the nature and extent of evidence required to support applications and claims, should be clearly defined. The potential for blockages and delays should be designed out, wherever possible, and teams resourced to meet time and quality standards (including legal requirements, service level agreements, and published targets).

Referrals process

- 5.2** The Deprivation Team manages a mailbox for referrals of cases, both from within the Home Office and from external stakeholders.
- 5.3** Referrals must be made using a 'Fraud referral pro forma', which contains details of the referrer, the subject of the referral (including name, date of birth, place of birth, and original nationality), and a summary setting out the proposed reasons for depriving the individual of their citizenship. The pro forma should also provide the source of any information relevant to the referral and reference to any accompanying evidence which substantiates the allegation of fraud.
- 5.4** The form contains a series of 'exclusions' which the referring party must consider as part of the referral process:
- Was citizenship obtained by birth or descent?
 - Did the fraud occur after the application for citizenship?
 - Was the person a minor at the time of the fraud?
 - Was ILR obtained under a government concession?¹⁷
- 5.5** Executive Officer (EO) decision makers within the Deprivation Team monitor the inbox on a rota basis. Staff told inspectors that this activity previously fell to a small number of team members, but due to staff turnover, responsibility for this task was extended to all decision makers on a weekly rotation.
- 5.6** On receipt of a referral, the decision maker reviews the information provided and makes an initial assessment to either accept or reject the case. Alternatively, they may request further information before deciding whether they can proceed with a decision to accept or reject.
- 5.7** Inspectors observed the process for monitoring the referrals inbox. Referrals were stored in sub-folders marked 'accepted' or 'rejected' separated into year groups from 2018 to 2023. As

¹⁷ 'ILR' refers to indefinite leave to remain, which allows an individual to live in the UK without any immigration restrictions.

at 23 May 2023, the Deprivation Team had recorded 3,203 referrals since 2018. The inbox was empty at the time of inspection, meaning that all incoming referrals had been reviewed and actioned.

- 5.8 A further sub-folder marked 'pending', which stored referrals where additional information had been requested, contained 157 emails. The oldest email in this folder was dated 22 July 2021. Staff told inspectors that changes in personnel resulted in inconsistent handling of these emails, and there was a need to "tackle" the pending inbox. Decision makers have no set time limits for resolving pending cases, and the length of time given to them "really depends on the case".

Triage of inbox referrals

- 5.9 In response to a request by the inspectors, the Home Office provided a narrative explanation of the case acceptance criteria used for fraud-based cases:

"Deprivation referrals acceptance criteria:

1. Has the person naturalised as a British Citizen?
2. Has the case already been referred to Deprivation?
3. What does the allegation refer to?
4. Has evidence been provided by the referrer? If not, request this from the referrer before deciding whether to accept or reject

False identity:

Have they used a false name?

5. Yes – If the name is the only difference reject the referral as a false name is not material unless there is evidence of criminality

Have they used a false DOB [date of birth]?

6. Is there reason to believe they have falsely claimed to be a minor at the time of their asylum claim[?] Have they potentially changed their DOB to appear younger than their actual age[?] If yes, accept the referral
7. If no, reject as name and DOB not material unless there is evidence of criminality

Have they used a false nationality?

8. If yes accept the referral"

- 5.10 Further questions are provided for consideration of specific cases, such as where marriage fraud is suspected or if the individual has been involved in criminal activity. Where there is evidence that a crime has been committed, the decision maker considers:

"the crime, sentence and when it took place (if it was before they naturalised). If it would have affected the 'good character' at the time of the naturalisation application [they should] accept the referral.

If the evidence suggests that the crime took place after they became a BC [British Citizen] reject ..."

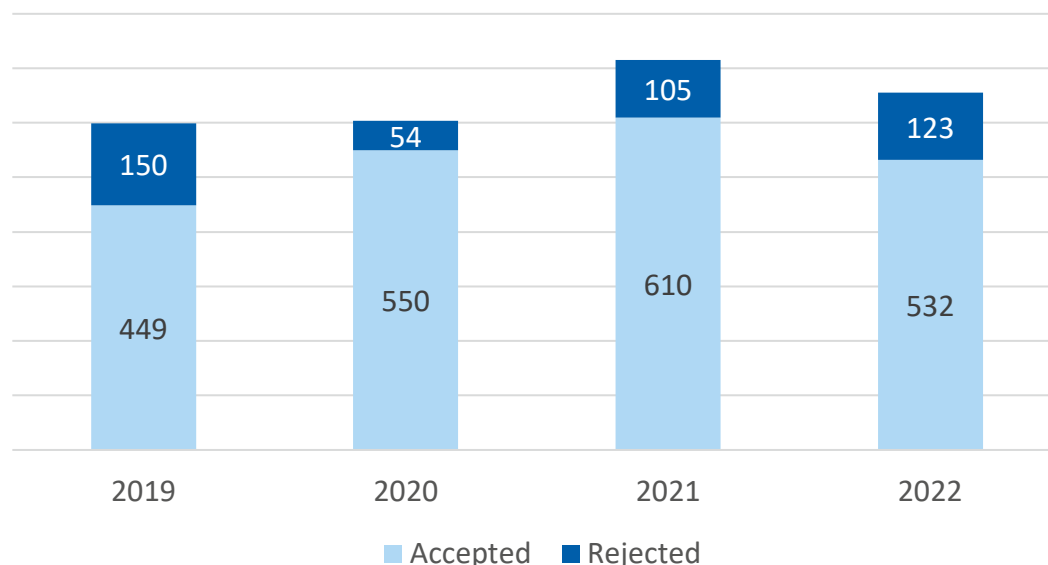
- 5.11 The decision to accept a referral will also be based on availability of any disclosable evidence. Examples of what the Home Office considers to be disclosable evidence include photographic evidence of genuine identity or citizenship, or copies of applications, such as passport applications.

- 5.12 Where a case is accepted, acknowledgement of receipt is sent to the referring partner. There are no established timelines or service level agreements in place for progression or resolution of cases. Referees are advised that the Deprivation Team “cannot provide a definitive timeline as to when you/your client’s case will be allocated” but that “we aim to progress your/your client’s case as soon as possible”.
- 5.13 Additional responsibilities for the decision maker include entering the details of the subject on to Atlas (the Home Office’s caseworking system), conducting initial checks on police and immigration computer systems, and the creation of a digital file in SharePoint for storage of documents and progression of caseworking.
- 5.14 Where a case is rejected, the decision maker writes to the referring partner providing full reasons for the decision. All cases, whether accepted or rejected, are added to a ‘referrals spreadsheet’, which is stored in SharePoint.

Referral volumes

- 5.15 Inspectors requested evidence of the number of fraud cases accepted and rejected for consideration of deprivation of citizenship between 1 January 2019 and 31 May 2023. The Deprivation Team was unable to provide the data set which was “too large to send in a document”, however, a link was provided to the team’s ‘Deprivation Control Sheet’ which recorded case referrals.
- 5.16 Inspectors found a number of errors in record keeping. Although the spreadsheet was marked as ‘post 01/04/2018’, it included 13 cases that had been referred prior to that date. The earliest of these cases was received in 2014 and recorded as accepted on ‘06-Jun’, omitting the year of acceptance. The remaining 12 cases were recorded as ‘referral accepted’ after 1 April 2018, but the spreadsheet did not include reasons for the considerable delay in acceptance. Figure 6 shows the breakdown of fraud cases accepted and rejected between 1 January 2019 and 31 December 2022.

Figure 6: Fraud cases accepted and rejected between 1 January 2019 and 31 December 2022.



- 5.17** According to the data from 2019 to 2022, the average number of cases accepted and rejected per year was 535 and 108 respectively. A further 200 cases had been accepted and 40 rejected between 1 January 2023 and 10 May 2023.
- 5.18** The data indicates that of the total number of cases (2,817) referred to the Deprivation Team between 1 January 2019 and 10 May 2023, 83.43% (2,350) had been accepted and 16.58% rejected. Further analysis conducted on the date referrals were made and the decision taken to accept them showed that 89% were accepted within one to seven days, 5% in eight to fourteen days and 6% in fifteen days or more.
- 5.19** Data within the spreadsheet captured details of any ‘other’ nationality the subject had or was eligible to have, but inspectors found the data difficult to analyse due to the number of errors and variations in recording information. One such example was Jamaica, which was recorded as JAM, Jamaica and Jamica. Another was Iran, where three variations were noted: IRN, Iran and IRN/IRQ.
- 5.20** Inspectors did, however, identify the top five ‘other’ nationalities of individuals who had been referred to the Deprivation Team since 1 January 2019. As the data in Figure 7 demonstrates, a significant number of the cases are recorded as being Kosovan. It should be noted, however, that the spreadsheet contains a further column capturing ‘dual nationality’ and that for 1,311 (out of 1,391) of the Kosovan entries the dual nationality is noted to be ‘Albania’. The remaining 80 cases did not have any other dual nationality noted.

Figure 7: Top five nationalities referred to the Deprivation Team between 1 January 2019 and 10 May 2023

| Nationality | Volumes recorded | Dual nationality |
|-------------|------------------|-----------------------------|
| Kosovo | 1,391 | Albania |
| Iraq | 389 | Albania, Egypt, Iran, Syria |
| Albania | 99 | Kosovo |
| Pakistan | 92 | Afghanistan, Myanmar |
| Afghanistan | 68 | India, Pakistan |

- 5.21** As the data in Figure 7 demonstrates, recording of other nationalities presents a confusing picture. In a number of cases, the nationality recorded as the main nationality is in fact the one used in connection with the fraudulent identity. The individual’s true nationality is recorded on the system as ‘dual nationality’.

Referring partners

- 5.22** The list of departments referring cases to the Deprivation Team totalled 155, but again inspectors found a number of recording errors. The Foreign, Commonwealth & Development Office and Foreign and Commonwealth Office both featured in the spreadsheet as FCDO and FCO. There were also numerous spelling errors indicating poor-quality record keeping, which made analysis and evaluation of referring partners challenging.
- 5.23** Inspectors identified that His Majesty’s Passport Office (HMPO) referred the largest number of cases (48.28%) to the Deprivation Team. This was followed by referrals from within the Status Review Unit (SRU) (22.62%) and the Nationality Team (8.02%).

5.24 Inspectors raised concerns around the quality of the data with managers. Managers explained that data was checked and 'cleansed' when the information from the referrals sheet was transferred into separate work in progress (WIP) logs. While this approach might have the potential to eradicate some of the recording errors, inspectors concluded that better management of data at an early stage would drive greater consistency and enable the Deprivation Team to have a better understanding of the profile of the cases they receive and the sources of the referrals. Current practices have also meant a duplication of effort.

Engagement with referring partners

5.25 Staff told inspectors that changes in information required in the referral pro forma and engagement with key stakeholders, including HMPO, the National Crime Agency (NCA) and the Home Office's Nationality Team had led to improvements in the quality of referrals.

5.26 This view was reinforced by stakeholders. One observed: "As our engagement has developed with SRU, we have developed a better understanding of the types of cases that will or won't be successful. As a result, the number of our referrals remain significant but have dropped." Another stated: "We've learnt what they can't run so we refer fewer cases."

5.27 Alongside this, as referring partners have gained further experience and knowledge of deprivation of citizenship, they felt equipped to identify "where we can get a result or not". Prior to making the referral to the Deprivation Team, the necessary investigative work is carried out "so it is with the full package and showing who they really are". The investigative work may entail contacting an Immigration Enforcement Team based in a British embassy or high commission overseas to request local checks on an individual's identity.

5.28 Further feedback from all stakeholders (HMPO, NCA, the Nationality Team) on engagement was positive, as the parties said they had "a good working dialogue" and "a good understanding of process on both sides". Meetings had initially taken place monthly, but now occurred every six weeks and generally lasted 10 to 15 minutes, providing an opportunity to discuss any cases of interest and request updates on cases.

5.29 In interviews with representatives from HMPO, the NCA, and the Home Office Nationality Team, inspectors learned that no specific guidance was available to those organisations on making referrals to the Deprivation Team. Stakeholders indicated, however, that this lack of formal guidance was not a concern, as regular calls facilitated an understanding of the team's work.

Profile of referrals

5.30 HMPO staff told inspectors that two operations, focusing on Iraqi and Albanian nationals who had used false identities on arrival in the UK, had generated the majority of their referrals to the Deprivation Team since 2014.

5.31 In these HMPO operations, the fraud was identified "when the parents applied for a passport for their children". Within this application, genuine identity documents were presented which revealed the differences in the details provided by the parents when they first entered the UK. Similarly, referring partners within the Home Office told inspectors that fraud was commonly identified when an application for a visa or permission to remain in the UK was made for a family member. One commented: "The majority are Albanians who now want to bring in other family members."

- 5.32** The NCA estimated that almost 90% of cases they referred on fraud grounds related to Albanians, largely attributable to the memorandum of understanding the Home Office has with the Albanian Ministry of the Interior, which allowed access to local records to confirm details of identity and nationality.
- 5.33** There is a recognised pattern of fraud in Albanian deprivation cases, with significant numbers having been found to have falsely claimed to be nationals of Kosovo in order to obtain asylum in the UK in the late 1990s. The use of this false identity has then carried through to subsequent applications for indefinite leave to remain and British citizenship.
- 5.34** Researchers have reported on the high proportion of Albanian citizens among those who are subject to deprivation orders. In a recent article, ‘Deception and denaturalisation: seek and you shall find’, published in February 2023, Colin Yeo noted:
- “Where there is discretion, there is also discrimination. It has long been the case that Albanians are heavily overrepresented in immigration detention and in enforced removals, not just in denaturalisation decisions. There is a huge amount of discretion as to what resources are dedicated to detecting fraud and then also to taking action. It is entirely plausible that the British state has discriminated against Albanians.”¹⁸
- 5.35** Similar views were shared by external stakeholders who raised concerns of potential discrimination practised by the Home Office in relation to Albanian nationals.
- 5.36** As can be seen from the data in Figure 7, individuals with Albania recorded as a first other nationality or dual nationality form the highest volume of cases being referred into the Deprivation Team. When asked about any potential discrimination, Home Office staff told inspectors, “Albanians are not being targeted as we don’t have control on what is being referred”, and “the people who have been referred have seen which cases are taken forward, so they make more similar referrals, and know what they are looking for”. However, inspectors were not aware of any ministerial authorisation or legislation that permitted direct discrimination on the grounds of race.

Prioritisation

- 5.37** Referring partners told inspectors that there were no agreed timelines for handling cases, and there were some frustrations over delays in progressing cases. One partner commented that it “takes ages to get a decision”.
- 5.38** Delays were largely attributed to the length of time the appeal process took, but staff turnover was also considered to be a factor, as staff members moving on resulted in cases having to be reassigned. In practice, this meant that the case was placed back in the WIP hold until a decision maker had the capacity to take on this new case.
- 5.39** Methods of tracking progress on cases were inconsistent. Some partners stated that they waited for their meetings, while others contacted ‘old colleagues’ or other members of staff known to them if they needed to. Others had access to Atlas, but they did not routinely check it for updates as the system was “challenging”. Partners told inspectors that general information could be found, such as decision dates, but with the majority of caseworking being managed

¹⁸ Colin Yeo, ‘Deception and denaturalisation: seek and you shall find’, Free Movement, published 13 February 2023, <https://freemovement.org.uk/deception-and-denaturalisation-seek-and-you-shall-find/>

through digital files on SharePoint they could not establish what progress was being made on cases they had referred.

- 5.40** Referring partners were satisfied, however, that they could request expedition of a case if it was a priority, for example, where MPs' representations had been made or in compassionate circumstances, such as serious ill health.

Workflow

Allocation of cases

- 5.41** Once a case has been accepted for deprivation consideration, the details are copied from the referrals log into WIP spreadsheets. Allocation of cases is managed by two Higher Executive Officer (HEO) team leaders whose main responsibilities are to assign cases, monitor workflow and line manage 11 to 12 decision makers each.
- 5.42** Staff told inspectors that the Deprivation Team had undergone several changes in recent years, reducing from four decision-making teams to two. Historically, work was allocated to each of the four teams based on the date of referral: Team 1 managed all new work from 2020 to the present date, Team 2 handled cases referred from 2017 to 2019, Team 3 covered referrals from 2015 to 2016, and Team 4 was responsible for older referrals made between 2008 and 2014. Each team leader managed a WIP spreadsheet for their team.
- 5.43** Changes to the organisation structure led to the consolidation of work into two teams and two WIP cohorts, one containing cases from 2008 to 2019, the other from 2020 onwards. In conjunction with these changes, work allocation was reviewed, and decision makers from each team now receive cases from both cohorts.
- 5.44** Staff told inspectors that the new approach was much improved, as they "have a good mix of old and new cases", so "they have a balance and can hit their targets". Older cases were felt to be more challenging, as they did not contain the same level of evidence as newer cases and may have been worked on by several caseworkers previously. Newer cases were considered more straightforward, as they generally had fewer documents and were more orderly, reflecting improvements in the referral and case management process. A further benefit of working on both cohorts was that it led to the WIP queues reducing in tandem, preventing a fresh backlog of cases developing.
- 5.45** Decision makers managed their case allocations using individual spreadsheets, but there was no consistent picture of what was expected of team members. In focus groups, staff reported a range of 12 to 25 cases currently 'owned' by them, while managers advised that decision makers should 'hold' 12 to 15 cases.
- 5.46** The 2017 Report stated that there needed to be a better understanding of the WIP. That inspection highlighted the need for management to "know at all times what cases are in the 'Work in Progress' ... queue, what stage each is at, what action is required to progress each case, who is responsible for this, [and] when it should be completed", emphasising that any "problems or blockages ... must be identified and dealt with quickly".¹⁹

¹⁹ Independent Chief Inspector of Borders and Immigration, 'An inspection of the review and removal of immigration, refugee and citizenship "status"' (April – August 2017), published 30 January 2018, p.6, <https://www.gov.uk/government/publications/report-on-the-review-and-removal-of-immigration-refugee-and-citizenship-status>

- 5.47** Inspectors identified issues with the quality and reliability of data within the WIP spreadsheets. Managers acknowledged that “things may be missed”, because the case management system (CID, which is in the process of being phased out) did not always update correctly.
- 5.48** Despite the assertions of management regarding the tidying up of data when moving work from the referrals spreadsheet to the WIP, inspectors identified the same errors occurring. In the ‘WIP worksheet 1’ spreadsheet, for example, Albania, Albanian and ALB/KOS were all recorded as a nationality; one case had a Home Office reference in the Nationality field; and 77 cases were recorded as the Federal Republic of Yugoslavia.
- 5.49** Inspectors did, however, observe good file management within the WIP spreadsheets and concluded that there was a better understanding of what was there based on locally held data. A colour-coded system was used by team leaders to quickly identify cases for allocation, and decision makers were logged against allocated cases. Where a case had been put on hold, the reason for this was clearly explained. Examples given by decision makers included issues with CID / Atlas or delays pending the outcome of legal decisions.

Allocation timelines

- 5.50** The Home Office provided inspectors with a process chart which explained that accepted cases were allocated to decision makers within eight to twelve weeks weeks, depending on intake. Examination of the WIP spreadsheets indicated that the Deprivation Team was not meeting this standard.
- 5.51** On the Cohort 1 spreadsheet (named ‘WIP worksheet 1’), 420 of the 807 cases were marked ‘allocate’ which indicated that they were not with a decision maker for progression. Of the 420 cases, 389 were labelled ‘new case’.
- 5.52** One case which was accepted on 19 January 2021 was marked as ‘serve to file’ and one other which was raised on 1 November 2022 was marked as ‘Atlas Error’.²⁰ Of the remaining 387 unallocated, new case entries in the spreadsheet, the oldest case awaiting allocation was accepted on 16 June 2022. The remainder of unallocated cases are set out in Figure 8.

Figure 8: Unallocated cases from Cohort 1 from June 2022 to May 2023

| 2022 | Number awaiting allocation |
|-----------|----------------------------|
| June | 12 |
| July | 29 |
| August | 22 |
| September | 21 |
| October | 43 |
| November | 28 |
| December | 45 |

²⁰ ‘Serve to file’ cases refer to a cohort of individuals where the decision notice has not been served on the individual.

| 2023 | Number awaiting allocation |
|--------------|----------------------------|
| January | 27 |
| February | 37 |
| March | 49 |
| April | 42 |
| May | 32 |
| Total | 387 |

- 5.53** At the time of the inspection, eight to twelve weeks would include any cases referred from the beginning of March 2023. Prior to this date 264 cases, received between June 2022 and February 2023, had fallen out of this standard.
- 5.54** The Cohort 2 spreadsheet, named ‘WIP worksheet 2,3,4’, indicated that 174 of the 1,942 case records were awaiting allocation. Seventy-five cases were pending the outcome of a ministerial submission relating to the Laci judgement.²¹ These cases dated back to 4 July 2008, with one marked ‘Laci?’ and another ‘duplicate Laci?’. Ten cases were marked ‘nullity’ with a date range of 25 June 2009 to 9 March 2018, and a further 11 were marked ‘serve to file’ dating from 8 January 2009 to 12 November 2022.²²
- 5.55** All staff were consistent in their understanding of case prioritisation, which included claims for judicial review, cases where MPs had made representations, or where compassionate circumstances (such as serious illness) existed.

WIP data

- 5.56** Formal reporting of WIP data is produced weekly for the Deprivation Team by the Home Office’s Performance Reporting and Analysis Unit (PRAU).²³ As of 30 April 2023, PRAU reported 616 fraud cases in the WIP awaiting a decision. However, manual records held by the Deprivation Team indicated this figure was 1,084, representing a 55.06% difference between the two reports.
- 5.57** Staff told inspectors: “We have identified that there are issues in this report and that it is not recording all live cases. An urgent change request has been accepted to rectify this within the new Vantage product being developed.”²⁴
- 5.58** The issues had been caused by PRAU using processes to extract WIP data from caseworking systems, which did not include any cases listed as a dependant of the main subject or applicant. The Deprivation Team raised issues with the data, but it took some time before PRAU accepted there was a problem with the figures. The change request was raised at the beginning of February 2023, and the team had been given a “soft potential resolution date of around 31st July”. Until this time, the team continue to rely on spreadsheets to capture and monitor workflow.

²¹ Laci v Secretary of State for the Home Department [2021] EWCA Civ 769, <https://www.bailii.org/ew/cases/EWCA/Civ/2021/769.html>

²² Nullity of British citizenship is when registration or naturalisation was obtained by impersonation of an individual who would qualify for British citizenship if they had applied for it.

²³ PRAU provides support to the directorates that make up the Home Office Border & Immigration System in the form of reports.

²⁴ Vantage is a management information reporting capability which brings together a number of system data sources, including CID and Atlas), for performance reporting.

- 5.59 The position statement provided to the inspection team captured the issues with data as a risk, stating “whilst every step is taken by team members to ensure this is accurately recorded there is always a risk with manual data of it being missed or lost”.
- 5.60 The reporting pack also captured details of the ten oldest cases in the WIP recorded by PRAU, which ranged from 18 November 2002 to 28 July 2008. In these cases, it had not been possible to conclude decisions because legal judgements or action by colleagues in international teams were pending, or, in one case, because a prosecution was ongoing.
- 5.61 Details of a further 301 SRU deprivation cases were described as “blocked/unworkable”. Figure 9 provides details of these cases, including the reasons for the pause.

Figure 9: Cases marked as blocked/unworkable

| Type of blockage | Number of cases | Reason |
|--|-----------------|---|
| LACI cases | 135 | Awaiting decision on ministerial submission |
| Serve to file | 71 | Awaiting law implementation |
| Nullity | 32 | Awaiting policy |
| Immigration Enforcement International enquiries | 47 | Enquiries can take up to 1 year |
| Other | 16 | At NCA request/HMRC/with SCU or restricted/with Criminal and Financial Investigations, etc. |
| Total | 301 | |

Profile of WIP cases

- 5.62 As part of an initial evidence request, inspectors asked the Deprivation Team to provide a snapshot of data on the cases in the WIP as at 5 May 2023, with details including file reference number, nationality, date of birth, sex, case type, date of referral to the unit, date of decision (if appropriate), outcome, date of appeal, and appeal outcome (if appropriate). The data return provided contained 620 records, indicating again a significantly reduced volume when compared to the cohort of cases that the Deprivation Team is currently managing. Further problems with the data were identified, as the data set did not contain a number of the fields requested (date of birth, gender, date of decision, outcome, and appeal outcome).
- 5.63 The Deprivation Team provided inspectors with a refreshed view of the WIP data on 13 June 2023, containing 1,612 records and a more comprehensive view of the data requested, with only the appeal outcome data missing from the original request. Of the 1,612 entries, 926 cases were recorded as having no case outcome, providing a more accurate picture of cases currently in the WIP. Dates of cases awaiting a decision ranged from July 2008 to May 2023. Inspectors examined the data, but again found it difficult to establish ‘other’ nationalities held due to the recording of data. Of those that had a nationality recorded, the four top nationalities were British (158), Iraqi (123), Kosovan (114), and Federal Republic of Yugoslavia (100).
- 5.64 The 2017 Report highlighted issues with the WIP. Specifically, concerns were raised over managers’ understanding of what was in the WIP, the stage cases had reached, who had

responsibility for individual cases, and the causes of any blockages.²⁵ Inspectors noted significant improvements in terms of the management of the WIP. However, there is still a need for better data and a requirement to properly quality assure information to ensure that all cases have been captured in the cohort spreadsheets.

Conducive to the public good cases

Referral process

- 5.65** Responsibility for conducive to the public good cases falls to two separate teams in the Home Office. The Special Cases Unit (SCU) “make decisions on conducive grounds on individuals who pose a threat to the public where we rely upon sensitive intelligence to make that decision”. Cases managed by the SRU’s Deprivation Team are “based on evidence that is not subject to disclosure restrictions such as convictions in open court”.
- 5.66** ‘Conducive’ cases managed by the Deprivation Team sit with two Senior Executive Officers (SEOs), and ultimate sign-off for the decision is by the Home Secretary. Consequently, the referral and handling processes for conducive to the public good cases are managed separately from fraud considerations.
- 5.67** According to ‘Deprivation of British Citizenship Guidance’ published by the Home Office for use by caseworkers on 10 May 2023, “the referring body will need to evidence their reasoning as to why they believe the individual’s conduct and / or the threat they pose to the UK is serious enough to be considered for deprivation action”.²⁶
- 5.68** On receipt of a referral, all cases are reviewed by the SEOs, not only for evidence of involvement in serious and organised crime, but the individual’s role in the offences. Cases are also reviewed to establish if the decision to deprive will make the subject stateless. A deprivation order cannot be made on this ground if it would make the individual stateless, unless:
- a. the citizenship status results from the person’s naturalisation
 - b. the Secretary of State is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory, and
 - c. the Secretary of State has reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory²⁷
- 5.69** Staff told inspectors that referrals to SRU on ‘conducive’ grounds commenced in 2015, which made this “a relatively new work stream” for the unit. Staff added that the main source of referrals was the NCA. This was supported by the position statement provided to inspectors by the Home Office, which stated that ‘conducive’ cases referred to SRU came primarily from the NCA or from the department’s Foreign National Offender Removals Command (FNORC).

²⁵ Independent Chief Inspector of Borders and Immigration, ‘An inspection of the review and removal of immigration, refugee and citizenship “status”’, published January 2018, p.6, <https://www.gov.uk/government/publications/report-on-the-review-and-removal-of-immigration-refugee-and-citizenship-status>

²⁶ Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

²⁷ British Nationality Act 1981, s40(4-4A), <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

Recording of cases

5.70 In response to the evidence request for this inspection, the Deprivation Team provided a data return for ‘conductive’ cases, with accompanying notes which explained:

“The Conductive workstream does not process cases in large numbers due to the nature of its decisions. As such there is no large work in progress awaiting processing as the SEO case owners discuss cases with our main referring partners (NCA) and then if it is established a case is suitable a formal recommendation [the referral] is sent by the referring partner.”

5.71 [Redacted]

5.72 [Redacted]

5.73 [Redacted]

Figure 10: [Redacted]

| Nationality recorded | Number of entries |
|----------------------|-------------------|
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |
| [Redacted] | [Redacted] |

5.74 [Redacted]

5.75 [Redacted]

5.76 [Redacted]

5.77 One case had been referred in 2018 but did not have any data in the ‘decision’ field, and there was no indication of what action had taken place.

5.78 Data quality was an issue with the WIP data once again, which inspectors found particularly poor given the low volume of cases held by the team. In addition to the data errors, cases were not recorded in any particular order, such as chronologically or by current case status.

Stakeholder referrals

- 5.79** Once again, stakeholders told inspectors that they had developed good working relationships with the team managing ‘conductive’ cases. Referrals processes were found to be more informal, captured by one stakeholder as follows: “Through our engagement with SRU we’ve come to a rough and ready idea of what to refer.”
- 5.80** Where criminality is involved, stakeholders were advised by the Deprivation Team that they would only want to use the power on someone who has had “a leading or controlling role in OCGs [organised crime groups]”. In the words of one stakeholder: “There was a gap in what might be seen as serious and serious organised crime ... I think we’re getting there and there is a willingness to look at this in more detail.”
- 5.81** The regular engagement with the conducive caseworkers in the Deprivation Team was identified as positive, summarised by one stakeholder as follows:
- “One of the advantages of the meetings, especially on the conducive side is that we can discuss them in the meetings, for example, thresholds and statelessness so we can knock them out without doing too much work on it.”

Raising awareness

- 5.82** At the time of the 2017 Report, SRU had identified the need to increase awareness of its work within the Home Office, and with other government departments and the public, “so that relevant cases are referred to it”. Raising awareness remained a priority in 2023, as staff told inspectors that the Deprivation Team is looking to encourage referrals from other agencies, including the police and other partners dealing with serious and organised crime.
- 5.83** Inspectors were keen to understand the impact of the engagement that had been carried out following the 2017 Report, but no formal evaluation had been completed. Some informal tracking had taken place with managers monitoring incoming referrals and checking if numbers have increased significantly from any particular area.
- 5.84** Looking forward, the Deprivation Team plans to create short, animated videos providing “basic information about who we are, what type of issues should be reported or referred into us and how to refer them”. Staff identified that this format would enable them to reach a wider audience across colleagues in the region, in other government departments, and law enforcement agencies, while reducing the need for resources to attend engagement events in person.

Summary

- 5.85** Inspectors found that the Deprivation Team had good working relationships with partners who referred cases into them. Regular engagement facilitated conversations and had ultimately led to improvements in process. No formal guidance was available, nor were there any published timelines for handling cases. However, stakeholders were satisfied a case could be prioritised if needed, and staff were consistent in their understanding of what constituted a priority.
- 5.86** Errors in recording were a problem. Spreadsheets were largely used to record and monitor referrals and to capture WIP data, a necessary back up as IT caseworking systems were unable to deliver workflow solutions. While the use of spreadsheets helped to manage work, they did

not provide a fail-safe method of recording, as cases were still reported to “slip through the net”. Of particular note was the poor record keeping on ‘conductive’ cases given the low volume of casework in this area.

- 5.87** Team leaders had a good understanding of workloads, and improvements with WIP management had been noted since the 2017 Report, although there was still some way to go. Data cleansing would help to improve quality and reliability of the information recorded. Significant discrepancies were noted between the data provided by PRAU and the Deprivation Team’s own records, but this looked to be closer to resolution at the time of writing.
- 5.88** Stakeholder concerns that certain nationalities featured more prominently than others in the cohort of fraud cases appeared to be well founded. While data recording made analysis challenging, it appeared that individuals who were noted to have an ‘other’ nationality of Kosovan, Albanian, or Iraqi were more likely to be deprived of citizenship. This appeared to be largely due to referring partners, and patterns of fraud that had previously been identified by them, rather than any targeted activity by the Home Office.

6. Evidence analysis: decision making

ICIBI expectations

- 6.1** The ICIBI expects decisions and actions to be right the first time. They should be evidence based or, where appropriate, intelligence led. They should be made in accordance with legislation and guidance, reasonable, and consistent. Decisions and actions should be recorded and communicated accurately, in the required format and detail, and should be readily retrievable (with due regard to data protection requirements).

Deprivation of citizenship on the grounds of fraud, false representation, or concealment of a material fact

- 6.2** Section 40(3) of the British Nationality Act 1981 (BNA 1981) provides for a person who has been naturalised or registered as a British citizen to be deprived of their citizenship if the Home Secretary is satisfied that citizenship was obtained by means of fraud.²⁸
- 6.3** According to the Home Office's 'Deprivation of British Citizenship guidance' issued in May 2023 for decision makers, examples of where a person can be deprived of British citizenship on the grounds of fraud are where they have:
- "falsified elements of their personal details to gain citizenship
 - deliberately withheld relevant information that would have otherwise led to them being refused citizenship
 - committed fraud in a previous immigration application that had a direct bearing on their application for citizenship"²⁹

Factors for consideration in decision making

- 6.4** The guidance also sets out the factors that decision makers must take into account when considering whether to make a decision to deprive on fraud grounds:
- "whether the fraud was material to the acquisition of citizenship
 - whether there was an intention to deceive
 - any delay in making a decision to deprive once the fraud is uncovered

²⁸ This also extends to "British Overseas Territories Citizens, British Overseas Citizens, British Nationals (Overseas), British Protected Persons or British Subjects". Home Office, 'Deprivation of British citizenship: caseworker guidance', published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

²⁹ Home Office, 'Deprivation of British citizenship: caseworker guidance', published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

- the reasonably foreseeable consequences of deprivation
- whether there are any mitigating factors³⁰

Material fraud

- 6.5** The fraud must be material to the grant of citizenship for consideration of deprivation to be appropriate. A Deprivation Team manager explained that they may not pursue deprivation where an individual had just used a false name if the name change was not relevant to the grant of leave to remain leading to the grant of citizenship.
- 6.6** However, when applying for citizenship, applicants are required to disclose anything suggesting they are not of good character, including having been deliberately dishonest or deceptive in their dealings with the UK Government. Decision makers must consider the guidance on good character at the time the individual obtained their citizenship.³¹

Intention to deceive

- 6.7** To deprive a person of citizenship, there must have been “an intention to deceive, via conscious, premeditated action, in order to obtain British citizenship”.³²

Investigation and deprivation processes

- 6.8** Following acceptance of a case by the Deprivation Team, an Executive Officer (EO) decision maker initiates an investigation into whether deprivation action is appropriate.
- 6.9** Decision makers are required to undertake mandatory checks in every case using the Warnings Index and Police National Computer (PNC).³³ Further checks are made on Home Office files and internal and external databases, including Case Information Database (CID), Warehouse (Home Office casework database), Central Reference System (CRS), Single Intelligence Platform (SIP), and Indesser (address database). Where further investigations are required, checks may be carried out on systems owned by other government departments, including His Majesty’s Passport Office (HMPO), the Driver and Vehicle Licensing Agency, HM Revenue & Customs, and the Department for Work and Pensions. All actions and check results are recorded on an ‘investigation log’.
- 6.10** A manager in the Deprivation Team told inspectors that decision makers are required to review all notes, documents, and letters relating to an individual on Home Office files and IT systems. These checks extend to family members and any declarations signed, many of which relate to ‘good character’.
- 6.11** On completion of this stage of the investigation, the decision maker drafts an investigation letter explaining that deprivation of citizenship is being considered. The decision maker must set out the reasons for the investigation and inform the individual that if they are deprived of citizenship, they could be liable to removal from the UK.

30 Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

31 Home Office, ‘Nationality: good character requirement’, published 8 September 2022, <https://www.gov.uk/government/publications/good-character-nationality-policy-guidance>

32 Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

33 The Warnings Index is an immigration database.

- 6.12** The letter is sent to the individual, who is given the opportunity to provide any further information and mitigation for consideration within 21 days. Extensions to the deadline are possible but must be agreed by a senior caseworker and should generally be for no longer than a maximum of three months.
- 6.13** Once the response is received or the deadline for the response has lapsed, the decision maker reviews any mitigations and makes a decision. The decision will result in an individual retaining or being deprived of their citizenship. A summary of the case is entered into the investigation log, including a recommendation for action.
- 6.14** Decisions to deprive citizenship on fraud grounds are authorised by the Grade 7, while decisions not to proceed with deprivation action are forwarded to senior caseworkers (Higher Executive Officers (HEOs)) for approval.

Delays

- 6.15** Home Office guidance states that decision makers must consider any delay in making a decision to deprive once the fraud is uncovered. However, it gives no indication of how long any such delay could be before it would become unreasonable to the point of making the deprivation inappropriate, and there is no specific time limit within which a deprivation decision may be made.
- 6.16** The Home Office provided inspectors with details of file reference numbers for all cases where a decision to deprive a person of citizenship was made by the team between 1 January 2022 and 31 December 2022. All of the cases related to cases where decisions had been made on the grounds of fraud.
- 6.17** During sampling of this data, inspectors noted significant variances in case allocation and handling. In one instance, inspectors found evidence that an investigation letter and decision to deprive notice were sent to the individual within four months of the case being referred to the Deprivation Team. However, in other cases the period of time between the date of the investigation letter and the service of a deprivation notice ran to several years. In such circumstances, the individual may have assumed that the Home Office was taking no further action towards deprivation and continued to establish their lives in the UK (making it less likely that they would be removed following deprivation of citizenship).
- 6.18** A Deprivation Team manager told inspectors that there were unresolved cases dating back to 2008. This was confirmed by inspectors in their analysis of work in progress (WIP) data records.
- 6.19** During sampling of the files provided, inspectors found an example of a significant delay in dealing with a case, which is illustrated in case study 1.

Case study 1 – delay between referral to the Status Review Unit (SRU) and notification of investigation

Summary

The subject was granted asylum as a Kosovan minor in 2001 and naturalised as a British citizen in 2005.

In 2015, the subject applied to register the birth of his UK-born daughter. Within the application, the subject stated his place of birth as Albania, rather than Kosovo, contradicting the information provided when he initially entered the UK. What was then Her Majesty's Passport Office (HMPO) conducted checks via the Intelligence Liaison Officer (ILO) in the British embassy in Tirana and established that the identity the subject had provided did not exist in either Albania or Kosovo. This prompted a referral to SRU on 9 March 2015 for deprivation of citizenship consideration.

The Home Office sent an investigation letter to the subject on 1 March 2022 informing him of the investigation and the potential intention to deprive citizenship. In his response to the letter, the subject admitted the use of a fraudulent identity.

The decision maker considered the fraud to be material to the acquisition of citizenship, as his previous applications were granted in the belief that he entered the UK as a Kosovan minor. The fraud was deemed to be deliberate, as the subject knew the details he provided were incorrect, and by attempting to deceive the Home Office he could not be said to be of good character. The decision letter noted that had the true facts of the case been known, it is highly unlikely that his original application for asylum would have been granted.

A decision notice was served on 23 March 2022, seven years after referral. The decision notice explained the delay in dealing with the case by noting that it was "one of many cases referred to SRU for investigation". The letter also referenced the fact that although his children had been unable to obtain British passports during this delay, the subject had continued to enjoy all the rights associated with holding British citizenship during this period.

At the time of writing, the subject had an appeal outstanding against the decision to deprive citizenship.

ICIBI comment

There was a delay of seven years between the referral of the fraud to SRU in 2015 and the notification of an investigation in 2022. This is an inordinately long time for what appears to be a straightforward case, demonstrated by the fact that the period between the investigation and serving of decision letters was only three weeks. As highlighted in the decision notice, the subject had continued to benefit from British citizenship while no action was being taken on the case, and though the family had put down roots in the UK, the decision to deprive was not a decision to remove them from the UK. The inference of the decision letter is that the delay did not impact the individual.

Home Office response

Between 2008 and 2019 the deprivation case work in progress grew due to legal cases preventing cases being considered, resourcing issues and complicated processes. By 2019 these issues had started to be rectified but it meant that the teams had an aged work in progress of over 2,000 cases. Work has been ongoing to reduce that significantly as is evidenced by its current size today but this does mean that often we are processing older cases. The individual retained their British Citizen Rights throughout this period and as such the practical impact due to the delay in processing the case was limited.

- 6.20** In case study 2, an individual claimed that the delay between notification of a potential decision to deprive and the Home Office making the decision had a detrimental effect on his wellbeing.

Case study 2 – delay between investigation letter and decision notice

Summary

In September 2019, a naturalised British citizen submitted an application for a replacement British passport. HMPO linked the application to a previous passport application, from 2017, for his daughter, where fraudulent behaviour had been detected.

HMPO elected to interview the subject under caution, at which time he admitted that he had used a false identity in previous immigration applications. The subject claimed that his parents had deceived him regarding his date of birth and that he was not aware of the deception until his daughter's passport application was refused.

HMPO referred the individual's details to the Deprivation Team on 16 October 2019.

An investigation established that the subject, an Iraqi national, had falsely claimed to be a minor when he entered the UK on 30 March 2003. He claimed asylum and was granted discretionary leave to remain on the basis of his nationality and age. He was subsequently granted indefinite leave to remain due to his length of residence in the UK and was naturalised as a British citizen on 31 May 2011.

CID notes recorded that an investigation letter was sent to the individual on 19 December 2019.

On 13 August 2020, a decision maker in the Deprivation Team made enquiries with the ILO in Amman to establish whether the subject's identity and marriage details were as claimed. The ILO was not able to conduct checks due to COVID-19 restrictions and advised the decision maker to resubmit the enquiry in a few months. On 2 March 2021, the enquiry was resubmitted, but the ILO advised that it may take six to 12 months for a response.

The subject's representatives wrote to the Home Office on 14 December 2020 to say that he was becoming very anxious at the delay in decision making, and a request was made for urgent consideration of the case. Notes on CID indicate that a response was sent to the representatives on 21 December 2020 and a further email was sent on 07 April 2021 to say that due to delays a definitive timescale could not be given.

The representatives sent another letter regarding the delay causing anxiety and again asking for an urgent review on 18 June 2021. A further email was received requesting an update on 12 October 2021, and a response was sent that there was no timescale for a decision.

CID indicates that a pre-action protocol letter was sent to the Home Office on 23 February 2022. This prompted a decision deadline of 8 April 2022 to be set by the Appeals and Litigation Manager.

The Home Office did not accept that the subject's explanation of how he came to provide a false identity justified the deception. It judged his continued use of this identity to be a deliberate attempt to deceive and was material to the decisions relating to his immigration status and citizenship.

A deprivation decision notice was sent to the individual on 8 April 2022.

The subject initially appealed the decision to deprive citizenship on 12 April 2022, but this appeal was later withdrawn. A deprivation order was sent to the subject on 13 June 2022. The Post-Decision Team then granted him leave to remain for 30 months on Article 8 human rights grounds on 27 September 2022.

ICIBI comment

This case involved a delay of over two years between serving the investigation letter and the decision notice. It was unclear whether a response was eventually received from the ILO in Amman or whether this enquiry contributed to the delay in decision making as it was not referred to in the investigation log.

There are no service level agreements in relation to deprivation of citizenship cases. The Home Office does not routinely provide updates to the individual being investigated as to the action being taken on their case, which can heighten anxiety while their future remains uncertain. The reference to anxiety does not appear to have made any difference to the speed at which the case was dealt with, and it seems that it was only the threat of judicial review through the pre-action protocol that prompted a decision.

While viewing the documents relating to this case on SharePoint, inspectors noted that there were some confusing documents in the case folder. There were three copies of the investigation log, of which one appeared to be the final version, another appeared to be a draft log, and a third related to two different people (beginning with the Iraqi male and changing midway through to a case concerning an Albanian national). A deprivation notice (which appeared to be a draft) in the case file also related to both the subject and a second unrelated case.

Home Office response

Decisions to deprive an individual's citizenship are not taken lightly and the Home Office takes all steps to ensure that these decisions are fully investigated and properly evidenced. Occasionally this can cause delays when we are seeking evidence from overseas or other government departments. Any detriment to the individuals we investigate must be balanced against the need to ensure a fair immigration system and that decisions made are factually accurate. Issues with data storage are accepted and we are reviewing these processes all the time in order to improve them.

The 'limbo' period

- 6.21** Delays at the end of the decision-making process also caused a significant amount of upheaval to individuals. A senior caseworker told inspectors that appeals against fraud deprivation decisions were being made on the grounds that individuals' lives would be impacted by the period between the removal of citizenship and any subsequent grant of leave to remain, known as the 'limbo' period. During this time, individuals lose their rights to work, rent accommodation, and receive welfare payments.
- 6.22** A manager in the Deprivation Team told inspectors that they were seeing a "trend" of human rights and limbo arguments being used in appeals and that they were "looking to see what we can do about it or argue against it".
- 6.23** In *Laci v SSHD*, the impact was judged to be increased in cases where there was a delay between the individual being notified of a potential decision to deprive via the investigation letter and the decision notice being served.
- 6.24** At the time of the inspection, 135 cases had been placed on hold pending a decision on a submission, by the Head of SRU, to the Home Secretary suggesting several options for handling these cases.³⁴

34 *Laci v Secretary of State for the Home Department* [2021] EWCA Civ 769, <https://www.bailii.org/ew/cases/EWCA/Civ/2021/769.html>

- 6.25** The submission, dated 28 April 2023, recommended that the preferred option was to automatically issue leave to remain for one month following the service of a deprivation order. If an application was made for further leave during this period, the individual would retain the right to remain in the UK and to continue with their employment while the application is considered.
- 6.26** An alternative proposal was for the Article 8 rights to be considered as part of the deprivation decision. An indication would be given on the deprivation notice of an intention to grant leave to remain or remove. The deprivation order and a standard grant of 30 months leave to remain would then be issued simultaneously once appeal rights were exhausted. At the time of writing, a decision had not been made on this submission.

Nullity cases on hold

- 6.27** Nullity of British citizenship is when registration or naturalisation was obtained by impersonation of an individual who would qualify for British citizenship if they had applied for it. It is therefore considered to have never taken place.
- 6.28** At the time of the inspection, 32 ‘nullity’ cases were on hold, pending policy guidance, involving children who may be adversely affected by a deprivation decision.
- 6.29** A Home Office senior leader explained that nullification of citizenship could impact family members: “If someone acquired citizenship by descent, and the original citizen becomes a nullity, their citizenship also never existed. They are deemed not to have citizenship even if potentially, they have been in the country for 20 years or more.”

Consideration of European Convention on Human Rights

- 6.30** Deprivation of British citizenship guidance states that where deprivation might interfere with a qualified European Convention on Human Rights (ECHR) right, decision makers must carefully consider the impact deprivation would have on a person, and if appropriate, their dependants, and whether a decision to deprive would be proportionate:³⁵ “The decision must be necessary to fulfil the intended objective, having regard to the impact on the person and their rights, balanced against and the public interest in deprivation.”³⁶
- 6.31** As deprivation of citizenship does not necessarily lead to the removal of an individual from the UK, the impact of a deprivation decision on an individual’s human rights (particularly rights under Article 8 of the ECHR, relating to the right to respect for private and family life) may be minimal if they are subsequently granted another form of leave to remain in the UK. Deprivation of citizenship does mean, however, that the individual loses the right to vote in the UK and to hold a UK passport, and that they may lose access to certain benefits. It could also result in the individual and family members becoming stateless.
- 6.32** The BNA 1981 allows deprivation on fraud grounds even where the person will be rendered stateless.³⁷ This is agreed under the 1961 United Nations Convention on the Reduction of Statelessness.³⁸ However, the impact that statelessness will have on an individual must be

³⁵ Qualified rights are those human rights that can be restricted in some circumstances and within limits.

³⁶ Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

³⁷ British Nationality Act 1981, section 40, <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

³⁸ United Nations Convention on the Reduction of Statelessness, <https://www.unhcr.org/what-we-do/protect-human-rights/ending-statelessness/un-conventions-statelessness>

considered by the decision maker: “Where the decision to deprive may interfere with a qualified ECHR right, the decision must be proportionate to the public interest, having regard to the impact upon the person and their family.”³⁹

- 6.33** In the case of *Aziz (& Ors) v SSHD*, the Court of Appeal made a clear distinction between the impact on a person’s human rights of a decision to deprive versus the impact of a decision to deport.⁴⁰ The court found that it was unnecessary, as part of a decision to deprive, to assess a person’s human rights in anticipation of whether they would be deported, because that assessment would be done at a later stage in response to representations against deportation or removal.
- 6.34** Decision makers demonstrated a clear understanding of the criteria for assessing fraud-based deprivation decisions. In interviews, they explained to inspectors that they considered whether the fraud was material, deliberate, whether the individual was complicit in the fraud, and whether the decision to deprive was reasonable and proportionate.
- 6.35** Further, they considered the impact a decision to deprive citizenship would have on an individual’s human rights, such as the ECHR Article 8. Mitigations were noted in the deprivation letter. Decision makers considered that they had a lot of discretion to make “reasonable and ethical decisions”, with factors such as age or disability being taken into consideration. One described the decision as a “balancing act”. Length of residency or having family in the UK was not necessarily a barrier to deprivation but would be considered post-decision (discussed further in chapter 7).
- 6.36** There was frustration among staff that immigration judges were making decisions on Article 8 human rights grounds even though the deprivation decision letters made it clear that these issues would be considered post-deprivation.
- 6.37** Where a person is overseas when the decision to deprive is made, consideration must be given to the individual’s rights under Article 2 (right to life) and Article 3 (prohibition of torture) of the ECHR.

Deprivation notice

- 6.38** Under section 40(5) of the BNA 1981, notice of a deprivation decision must be given in writing, together with the reasons for the decision and details of the individual’s right of appeal.⁴¹
- 6.39** Decision makers draft the deprivation notice in a set format, including details of the individual’s immigration history, referral of their case to the Deprivation Team, the investigation letter, and assessment of mitigation.
- 6.40** The decision notice triggers the individual’s statutory right of appeal, giving them 14 days to submit an appeal. If the appeal against deprivation is dismissed, or the individual does not appeal, a deprivation order will be served.

39 Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

40 *Aziz (& Ors) v Secretary of State for the Home Department* [2018] EWCA Civ 1884, <https://www.bailii.org/ew/cases/EWCA/Civ/2018/1884.html>

41 British Nationality Act 1981 (as amended), section 40(5), <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

Deprivation without giving notice

6.41 Since 10 May 2023, under Section 40(5A) of BNA 1981 (as amended by the Nationality and Borders Act 2022), a decision to deprive may be made without giving notice to the individual concerned in some circumstances. Deprivation may be made without written notice where:

“(a) the Secretary of State does not have the information needed to be able to give notice under that subsection,

(b) the Secretary of State reasonably considers it necessary, in the interests of—

- national security
- the investigation or prosecution of organised or serious crime
- preventing or reducing a risk to the safety of any person
- the relationship between the United Kingdom and another country”⁴²

6.42 Under section 40(5D) of BNA 1981, notice must be given to a person deprived of citizenship if that person later makes contact with the Home Office.⁴³

6.43 During the inspection, there were 71 ‘serve to file’ cases on hold, awaiting the implementation of this legislation. Inspectors were keen to understand what state of readiness the Deprivation Team was in to process these cases. Staff told inspectors that there was not yet a way of recording on Atlas that a decision had been served to file. This meant that if the subject got in touch with the Home Office after a deprivation notice was served to file, there would be nothing to trigger a response to serve the deprivation notice by post, email, or other suitable method.

6.44 The Home Office provided evidence that standard operating procedures (SOPs) relating to serving notices and orders to file had been created and that they would be issued once an IT work-around was established. Familiarisation sessions would also be held with teams and were expected to take place from June 2023.

6.45 A Deprivation Team manager told inspectors that the intention was to gradually ‘drip feed’ serve to file decisions through the system. The reason given for this was that they would be relatively quick to deal with, and the manager did not want the team to become overwhelmed with the additional casework.

Stakeholder concerns

6.46 Stakeholders raised concerns with inspectors around the purpose of deprivation powers, given that in the majority of cases a deprivation order does not result in removal. One commented: “It can be said it is wrong that people benefit from deception, but as it doesn’t make a practical difference, it is also wrong to put resource [into depriving an individual of citizenship.]”

6.47 Staff in the Deprivation Team were clear as to the purpose of deprivation decisions which they considered to be “a question of fairness”, that those who acquire citizenship by coming to the UK, following the rules, and in some cases paying for their period of leave, should not be disadvantaged. They felt there must be a consequence to acquiring citizenship via fraud.

⁴² British Nationality Act 1981, section 40(5A), <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

⁴³ British Nationality Act 1981, section 40(5D), <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

Storage and management of case records

- 6.48** Decision makers use a combination of IT systems to record and manage cases. All case files are stored on the SRU SharePoint site which is restricted to staff within the unit. Cases had recently been transferred to SharePoint from the shared folder on POISE (a Home Office IT system). A manager from the Deprivation Team explained that prior to being transferred to SharePoint, documents were kept in date order. However, during transfer, the document dates all changed to the date of transfer and became mixed up.
- 6.49** Inspectors found that several case folders they viewed were disorganised. In some instances, it was difficult to locate key documents, such as the approval authority from the Grade 7; in others, multiple copies of the same documents had been saved. Cases involving family groups were also a challenge to navigate, as separate files were not always generated for each member of the family. Improvements were noted in files that had been created since the transfer to SharePoint, which were organised into folders for the investigation, summary, and decision stages.
- 6.50** Older cases are recorded on CID, and newer cases are recorded on Atlas. A Deprivation Team manager said that CID and Atlas can “talk” to each other, so details could be transferred from CID to Atlas, and the team had “never had to do much double-keying” (input of data into both systems), which had been common practice across other teams in the Home Office. Access to CID is due to be removed in September 2023, by which time it was expected that all cases would have transferred to Atlas.⁴⁴
- 6.51** While case notes can be uploaded to CID, there is limited scope to do so on Atlas. Decision makers considered Atlas to be unsuitable for deprivation cases as they could not record case summaries on the system. Staff considered that the caseworker’s “voice” would be lost, potentially making it difficult for others viewing the case to understand the rationale for the decision.
- 6.52** Deprivation Team managers explained that most Home Office caseworkers used Atlas to deal with applications through a step-by-step process, but that deprivation cases are not based on an application by an individual and therefore the system did not meet their needs. This was summarised by one senior manager: “Atlas was not built for us.”
- 6.53** Inspectors considered that the use of SharePoint meant that staff in other Home Office teams, such as Presenting Officers who required information at short notice for preparation of appeal hearings, were unable to view case notes and documents.
- 6.54** Inspectors were concerned that the use of SharePoint for storing case information presented risks, as details could be amended or removed, in error or deliberately, presenting a significant risk to the Home Office.

Performance targets

- 6.55** Decision makers are expected to make an average of 1.1 decisions per week. A Deprivation Team manager explained:

⁴⁴ The Home Office, in its factual accuracy response, stated that the date for decommissioning has officially changed and SRU will now lose access to CID in March 2024.

“The figure means the caseworker needs to do one decision – that could be a deprive, or a do not deprive. The 0.1 is all the work they do investigating a case to get it to the point to make the decision.”

- 6.56** It was unclear how the target of 1.1 had been agreed. One manager told inspectors: “The target of 1.1 is a historical figure – I’m not sure where we inherited it from.”
- 6.57** An SRU manager said that the time spent on reaching a decision varied greatly, as some cases could be straightforward, while others might involve a person with multiple identities.
- 6.58** Decision makers in a focus group thought that the target of 1.1 decisions was achievable and “did not put too much pressure on them”. They explained that some cases could take several years to conclude, but they could ask for other cases to work on while waiting for responses to checks and enquiries. Overall, decision makers described feeling supported in their decision making, with senior caseworkers, the Deputy Chief Caseworker, and the Grade 7 being readily available to provide advice informally.

Deprivation on ‘conductive’ grounds due to criminality

- 6.59** A key objective of the Government’s Serious Organised Crime Strategy, published in November 2018, is the “relentless disruption and targeted action against the highest harm serious and organised criminals and networks”.⁴⁵
- 6.60** Section 40(2) of the BNA 1981 provides for deprivation of citizenship on the grounds that it would be “conductive to the public good”.⁴⁶ While ‘conductive’ cases involving national security or sensitive intelligence are dealt with by caseworkers in the Special Cases Unit (SCU), non-sensitive cases involving criminality are managed by Senior Executive Officer (SEO) caseworkers in the Deprivation Team.
- 6.61** Home Office guidance on deprivation on ‘conductive’ grounds states:
- “The use of deprivation powers in cases of serious organised crime is focused on high harm offences, particularly those involving violent or sexual crime, human trafficking or facilitation of illegal immigration, money laundering or serious financial crime, organised drug importation and child sexual exploitation. However, this is not an exhaustive list, and each case referred to the Home Office must be considered on an individual basis.
- In determining whether deprivation action is appropriate you must consider whether the character and conduct of the individual is such that it is in the public interest to deprive them of British citizenship.”⁴⁷
- 6.62** A Home Office senior leader told inspectors that there are no specific rules regarding the type of criminal cases suitable for consideration, as there is little case law in this area. The offence, length of sentence, and harm to wider society are all taken into consideration, and there is a high threshold for deprivation: “We must justify why we’re depriving citizenship and satisfy the appeal court that our decision is reasonable and proportionate.”

45 Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

46 British Nationality Act 1981, section 40(2), <https://www.legislation.gov.uk/ukpga/1981/61/section/40>

47 Home Office, ‘Deprivation of British citizenship: caseworker guidance’, published 10 May 2023, <https://www.gov.uk/government/publications/deprivation-of-british-citizenship-caseworker-guidance>

- 6.63** The level of acceptance for cases was understood by referring partners. One explained they would only refer “the most exceptional cases” involving ‘high harm’ individuals with a leading role in an organised crime group.

Investigation and deprivation processes

- 6.64** When a referral for potential deprivation action on ‘conductive’ grounds is received, caseworkers complete nationality checks and draft a submission, which is reviewed by the Grade 7 before it is circulated to policy colleagues, Home Office Legal Advisors (HOLA), and the Foreign National Offenders Returns Command (FNORC) for review and comment. The submission is amended accordingly and returned to the Grade 7 for further review prior to sign-off by a Senior Civil Servant (SCS). Following SCS sign-off, it is sent to the Home Secretary, who decides whether citizenship should be deprived or retained.
- 6.65** In ‘conductive’ cases, the deprivation order is made immediately after the decision notice, and the deprivation of citizenship takes effect upon the order being made. This is to avoid a scenario where an individual becomes aware of the intention to deprive and renounces their second nationality (making deprivation action impossible, as citizenship generally cannot be removed on ‘conductive’ grounds if it would make a person stateless).

Resources

- 6.66** There are two SEOs managing ‘conductive’ cases in the Deprivation Team. A senior manager explained that these caseworkers are a higher grade to those deciding fraud cases because ‘conductive’ cases involve more complex litigation and are decided at a much higher level (the Home Secretary). This mirrors the process for handling ‘conductive’ cases in SCU, where they are also managed by SEO caseworkers.
- 6.67** Caseloads were much lower for ‘conductive’ caseworkers. At the time of the inspection, one had eight cases, while the other, a newer member of the team, had two. The oldest case pending a decision had been referred to the team in 2017, and the remainder of pending cases were referred in 2022 and 2023.
- 6.68** Unlike the fraud team decision makers, the ‘conductive’ caseworkers complete all post-decision casework, following cases through the First Tier Tribunal and Upper Tribunal to conclusion.

Case file storage and management

- 6.69** Caseworkers told inspectors that all case details were held on SharePoint and that cases were entered into CID after deprivation paperwork had been served. This was said to reduce the risk of the individual finding out that deprivation is being considered and renouncing their second nationality.
- 6.70** Atlas is not yet used for ‘conductive’ cases, as caseworkers felt that the system was built for handling cases where an application had been submitted, and it was unsuitable for ‘conductive’ casework. Caseworkers had fed back their specific requirements to the Atlas team and were hopeful that their recommendations had been accepted. No timelines were available for implementation of these changes.
- 6.71** ‘Conductive’ cases will follow the same process flow on Atlas, but consideration needs to be given to how access can be restricted due to the sensitive nature of this workstream.

Summary

Fraud cases

- 6.72** Inspectors found that decision makers had a good understanding of the factors to consider when making a deprivation decision and produced detailed, good-quality decision letters. They had discretion to make reasonable and proportionate decisions, bearing in mind the impact their decisions may have on individuals' lives. Ethical decision making was embedded in the decision-making process.
- 6.73** Home Office guidance is clear that the decision to deprive citizenship is separate from the decision to remove a person from the UK. However, despite the inclusion of explanatory wording in decision notices and case law relating to this issue, the Home Office continues to lose some deprivation appeals on Article 8 human rights grounds. This could be in part due to a lack of awareness by the Appeals, Litigation and Administrative Review (ALAR) staff (who represent the Home Office at appeals) and their ability to argue this point. Improved communication between the Deprivation Team and ALAR may help increase the Home Office's success rates at appeal.
- 6.74** The Deprivation Team had approximately 240 cases on hold awaiting policy decisions, a ministerial steer, or updates to IT systems. Given the significant delays faced by individuals in these cohorts of cases, inspectors felt more could be done to ensure a state of readiness for caseworking once the blockages are cleared.
- 6.75** Inspectors found a lack of clarity over the benchmarks for decision makers. It was not clear how the expected target of 1.1 decisions per week had been set, and staff could not provide a clear explanation as to how they measured 1.1 cases. Decision makers manage a mixture of cases, some more straightforward than others, and arguably a decision to retain citizenship should be dealt with more quickly and easily than a decision to deprive. A review of benchmarks would be helpful as an increase in decisions would lead to greater outputs and a reduction of the work in progress (WIP).
- 6.76** While inspectors found evidence of good record keeping, there were also older cases where case files were not well organised, potentially causing confusion and reducing efficiency. Well-maintained case files will assist decision makers in avoiding errors in Home Office documentation.
- 6.77** The use of multiple caseworking systems (CID and Atlas), in addition to case handling on SharePoint and record keeping on local spreadsheets, painted a confusing picture. Decision makers were reliant on SharePoint, as they did not consider Atlas suitable for deprivation casework. This was due to Atlas being based on cases involving an application being submitted, rather than investigative caseworking. SharePoint provided a convenient solution to document management but raised some concerns over access for staff outside the Deprivation Team and the ease with which documents could be altered or deleted.

Conducive to the public good cases

- 6.78** The Deprivation Team is currently dealing with a small number of 'conducive' cases involving serious organised crime. Caseworkers are a higher grade for 'conducive' cases due to the complex nature of the cases, potential litigation, and the higher level of authorisation. There is also likely to be a higher level of media and public scrutiny involved in these cases.

- 6.79** The caseworkers are not decision makers, but they ensure that cases are suitable for deprivation and present the evidence necessary for the Home Secretary to make a decision on each case. They then manage the case post-decision to conclusion.
- 6.80** ‘Conducive’ caseworkers are reliant on SharePoint to manage their cases and have not started using Atlas, even though the Deprivation Team will lose access to CID by September.⁴⁸ Caseworkers are awaiting the introduction of a new IT product, currently in development.

⁴⁸ The Home Office, in its factual accuracy response, stated that the date for decommissioning has officially changed and SRU will now lose access to CID in March 2024.

7. Evidence analysis: quality assurance, post-decision work, and appeals

ICIBI expectations

- 7.1** The ICIBI 'expectations' state that errors should be identified, acknowledged, and promptly 'put right'. This involves business processes having safeguards, management oversight, and quality assurance measures in place, and that these are tested and seen to be effective. Additionally, lessons should be learned from administrative reviews and litigation, and there should be a commitment to continuous improvement.

Quality assurance for deprivation decisions considered on the grounds of fraud, false representation, or concealment of material fact

- 7.2** The quality assurance process takes place following the decision to deprive or retain citizenship. Evidence submitted for this inspection detailed that both first- and second-line assurance is randomly conducted on both decision types.
- 7.3** Decision making in the Deprivation Team is governed by a 'Quality Assurance Strategy', dated November 2020, which aims to "ensure that the decisions taken within the Status Review Unit (SRU) are correct, robust and defensible if subject to challenge via Administrative Review, Appeal or Judicial Review".
- 7.4** Secondary aims include:
- ensuring that decisions are taken in line with Home Office policy and guidance
 - assisting in identifying gaps in policy and guidance
 - ensuring consistency among decision makers
 - identifying weaknesses and knowledge gaps within teams
 - identifying examples of positive caseworking to promote good practice
 - building confidence within decision makers and encouraging independent working
 - giving confidence in the quality of decision making to those subject to deprivation action, colleagues, key partners, and stakeholders
- 7.5** The specific marking standards for both decisions to deprive and retain citizenship are provided at Annex D. The marking standards detail what constitutes each criterion being correct, or having a minor, significant, or fail error. Results are entered into 'Quartz', a database used to record decision quality assessments across the Home Office. The database weights each criterion within the marking standard, so that on completion of the assessment, a percentage score is calculated.

- 7.6** Decisions are marked according to specified standards and given a decision quality (DQ) rating of 1 to 5, in line with Home Office quality assurance principles. Figure 11 explains how these ratings are differentiated.

Figure 11: Decision quality standards

| Decision quality rating | Explanation |
|-------------------------|--|
| DQ1 | Less than 20% minor errors |
| DQ2 | More than 20% minor errors but no significant errors |
| DQ3 | 1 significant error |
| DQ4 | 2 or more significant errors 1 or more fail errors (but correct decision to deprive or retain citizenship made) |
| DQ5 | 1 or more fail errors (but incorrect decision to deprive or retain citizenship made) |

- 7.7** Definitions for error tolerances are provided within the Quality Assurance Strategy. A minor error “does not detract from the overall consideration and would not affect the outcome of the decision and should be quickly rectified – there are no apparent risks/negative impact on the customer, Home Office or the UK as a result”.
- 7.8** A significant error “detracts and negatively impacts the quality of the consideration of the decision and requires attention to address serious weaknesses or omissions – there are potential risks/negative impact on the customer, Home Office or the UK as a result”.
- 7.9** A fail error “not only detracts from the consideration but also affects the decision such that the outcome cannot necessarily be relied upon and immediate attention is required to address the critical failure(s) – there are significant risks/negative impact on the customer, Home Office or the UK as a result of this error”.

Standards within the Deprivation Team

- 7.10** The expected quality standard within the Deprivation Team is DQ1, although DQ2 is also acceptable. A rating of DQ3 – 5 means that at least one significant error has been identified, or a ‘fail’ error, and in some instances the incorrect decision to deprive or retain citizenship has been made. Where a quality assurance check results in a DQ3 – 5 mark, a meeting is held between the decision maker, their line manager, and the senior caseworker to provide feedback and to discuss any learning points.
- 7.11** First-line assurance is undertaken by senior caseworkers, who are required to conduct a minimum of two quality assessments per decision maker each quarter. Evidence provided by the Deprivation Team confirmed that this requirement was being met.
- 7.12** Second-line assurance is conducted in two stages. For the first part, consistency checks are undertaken by the Deputy Chief Caseworker (DCCW) on those cases already assured by senior caseworkers. The DCCW repeats the quality assessment of the case in full, to ensure the result given by the senior caseworker is consistent with their assessment. The DCCW undertakes two checks per quarter for each senior caseworker, using the same marking standards.

- 7.13** For the second part, an independent assurance team within the Home Office undertakes checks on deprivation decisions and provides feedback.
- 7.14** Inspectors reviewed quality assurance data from 1 April 2022 to 31 March 2023. During this period, 284 decisions had been quality assured, including 139 decisions to deprive and 145 decisions to retain citizenship.
- 7.15** Of the 139 decisions to deprive, 122 (87.77%) were of DQ1 – 2 standard and 17 (12.23%) were DQ3 – 5. Of the 145 decisions to retain citizenship, 138 (95.17%) were DQ1 – 2 standard and seven (4.83%) were DQ3 – 5 standard. Across both decision types, the DQ scores indicated that 91.55% of decisions made during this period met the DQ1 – 2 standard.
- 7.16** Managers told inspectors that, following discussion of decisions scoring between DQ3 – 5, individual support was put in place to help the decision maker improve their decision quality. In focus groups, staff were unable to provide examples to inspectors of how the decision quality results had been used to drive improvements across the Deprivation Team, which may be due to the relatively high DQ performance. However, the training team told inspectors that they reviewed the quality data shared with them, and should a trend be identified, they would consider what support could be offered through additional training to help reduce errors.
- 7.17** Figures 12 and 13 show the outcome of quality assessments undertaken on decisions to deprive citizenship on the grounds of fraud between 1 April 2022 and 31 March 2023.

Figure 12: Quality assessments on fraud decisions to deprive citizenship, by decision quality standard, between 1 April 2022 and 31 March 2023

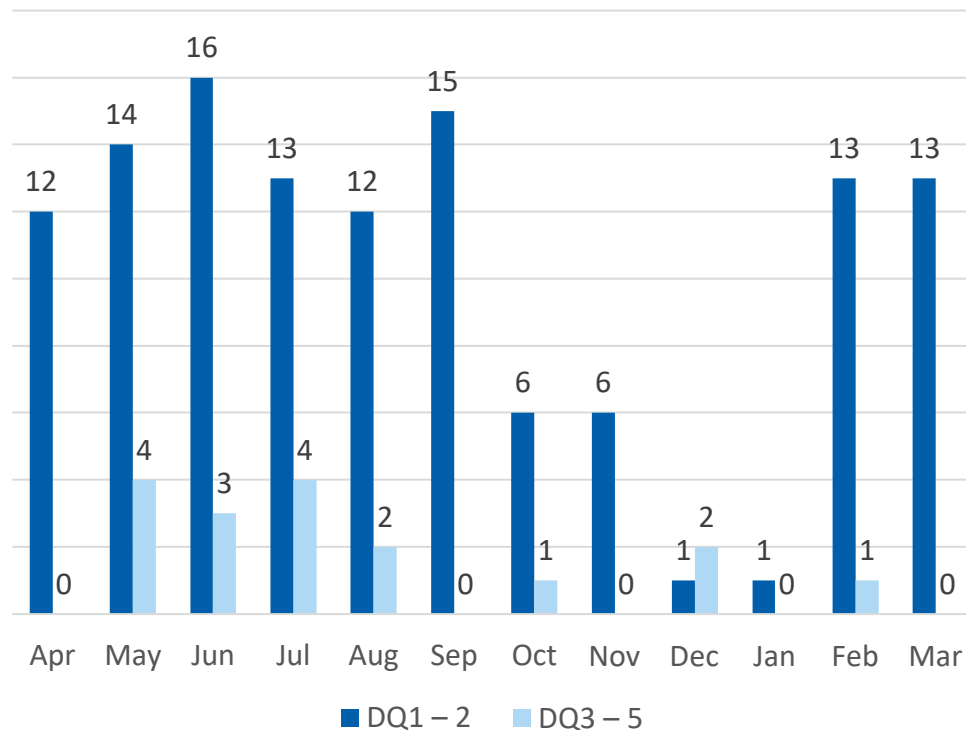
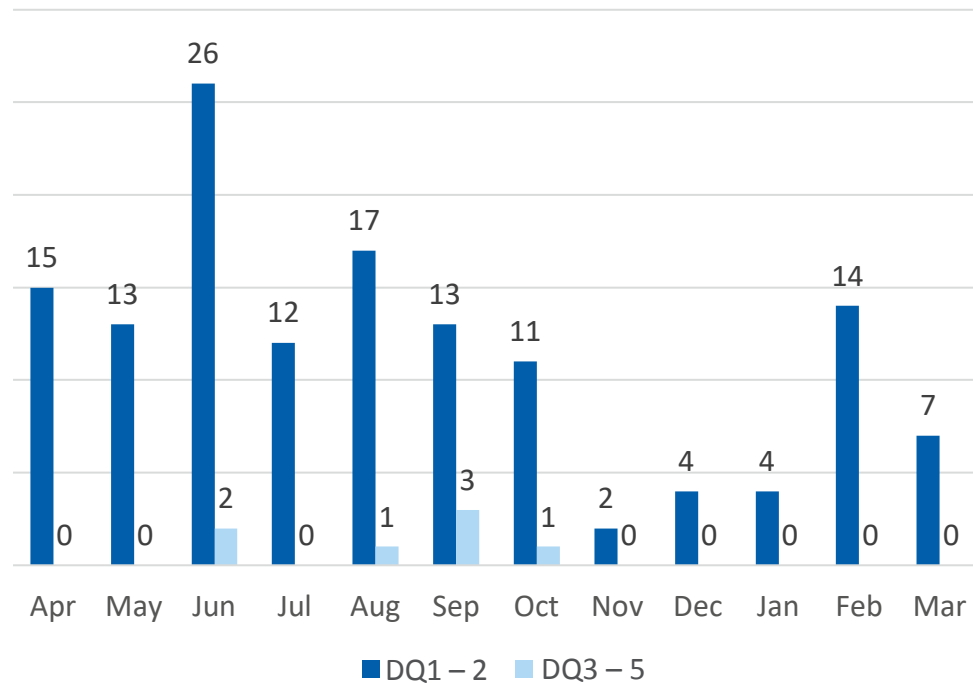


Figure 13: Quality assessments on fraud decisions to retain citizenship, by decision quality standard, between 1 April 2022 and 31 March 2023



Post-decision work

- 7.18** The Post-Decision Team is responsible for all fraud deprivation post-decision casework. The team’s duties include checking for receipt of appeals, monitoring appeals progress through to conclusion, serving deprivation orders, considering any Article 8 grants, and feeding outcomes of cases back to team members. A deprivation order is served when an individual decides not to appeal, or once all appeal rights have been exhausted.
- 7.19** The Post-Decision Team provides a service to the whole of SRU, but as is the case with the Appeals and Litigation Manager (ALM), most of their work currently relates to deprivation cases. At the time of inspection, the team was comprised of two members of staff, a Higher Executive Officer and an Executive Officer.
- 7.20** Staff informed inspectors that following a decision to deprive, the case is added to a ‘post-decision deprivation spreadsheet’, and cases are monitored by the team to check if appeal has been lodged or, if an appeal is ongoing, when the outcome has been determined.
- 7.21** At this point, the Post-Decision Team serve a deprivation order and contact the individual to request evidence, and consider grants of leave to remain for 30 months under Appendix FM of the Immigration Rules, which gives effect to Article 8 of the European Convention on Human Rights (ECHR).⁴⁹ Individuals deprived of citizenship under fraud grounds will in many cases have extensive family and private life ties to the UK, by virtue of having lived in the country for lengthy periods of time. In these circumstances, removal from the UK would breach ECHR rights, so grants of leave to remain must be considered at this point.

⁴⁹ Home Office, ‘Family life and exceptional circumstances: caseworker guidance’, published 18 May 2023, <https://www.gov.uk/government/publications/family-life-as-a-partner-or-parent-private-life-and-exceptional-circumstance>; Human Rights Act 1998, Schedule 1, Article 8, <https://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/1/chapter/7>

- 7.22** At the time of the inspection, the post-decision deprivation spreadsheet contained approximately 450 cases. Staff told inspectors that the spreadsheet had to be manually checked against Atlas and the Case Information Database (CID) for progress updates on the case. This typically involved checking whether an appeal had been received and the progress of any cases that were undergoing appeal consideration.
- 7.23** Resourcing pressures meant that checks could not be done on all 450 cases each week. Where possible the team aimed to check the first 50 on the spreadsheet each week, to identify whether they could begin post-decision action. However, staff told inspectors that this was not always completed.
- 7.24** Inspectors considered this manual workaround to be labour-intensive and an ineffective use of resource, but both staff and senior leaders explained they had not been able to find “another way to do it”.
- 7.25** Staff told inspectors that the transformation and change leads working with the Deprivation Team were aware of a requirement for a post-decision process within the Atlas system, and work had been ongoing since November 2021. However, it was unclear if this post-decision process included a technological solution to the notification of appeal results.
- 7.26** Issues with recording appeal updates were described by one member of staff:
- “Representatives write in and tell us that their client’s appeal rights are exhausted as of a particular date, but the IT systems are not updated, and we then need to contact ALAR [Appeals, Litigation and Administrative Review unit] and get them to double check so we can look at granting some form of leave.”
- 7.27** Appeals against deprivation decisions should be lodged within 14 days of the individual being notified of the decision, although submission of appeals beyond this deadline (late appeals) may be considered by His Majesty’s Courts & Tribunal Service (HMCTS).

Process for serving deprivation orders

- 7.28** The Post-Decision Team assess if a deprivation order is appropriate six to eight weeks after the decision notice has been served. Staff told inspectors that the extended timeline allowed for caseworking systems (CID or Atlas) to be updated by Appeals, Litigation and Administrative Review (ALAR) or consideration of a late appeal request by HMCTS.
- 7.29** Only once the deprivation order is made, are grants of leave on the grounds of Article 8 ECHR considered.
- 7.30** Following the deprivation order, where leave is not granted, the Post-Decision Team refer the case on to other teams within the Home Office for consideration of enforcement or removal action. Inspectors did not receive data on the volume of referrals, however, a staff member explained there were very few, and that in the majority of cases where a deprivation order had been made, a grant of leave to remain was given.

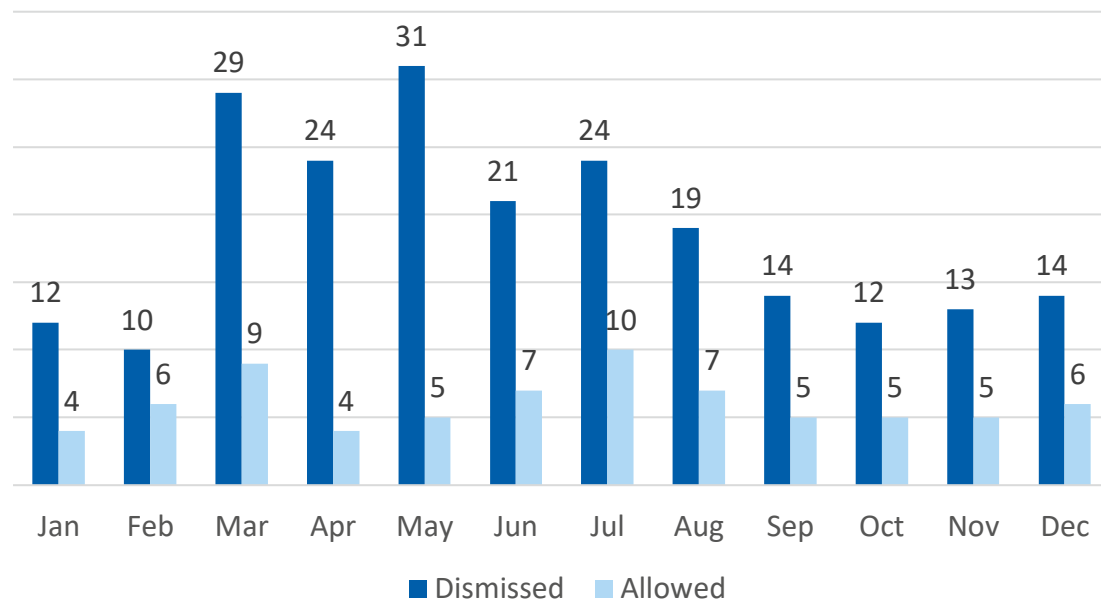
Learning from appeals

- 7.31** SRU has a dedicated ALM who sits within the Deprivation Team. The ALM’s responsibilities include responding to queries from the ALAR unit, monitoring appeal outcomes to identify trends and consider how lessons learned can be incorporated into future deprivation

decisions.⁵⁰ While the ALM undertakes this role on behalf of all SRU work strands (excluding appeals on ‘conductive’ cases), most of their focus is currently on deprivation appeals relating to fraud cases.

7.32 Data provided to inspectors captured the outcomes of deprivation appeals for fraud decisions at the First Tier Tribunal between January and December 2022.⁵¹ The data, displayed in Figure 14, indicated that of the 296 appeals heard during the period, 223 (75.34%) were dismissed (Home Office decision upheld) and 73 (24.66%) were allowed (Home Office decision overturned).

Figure 14: Appeal outcomes against fraud decisions at the First Tier Tribunal, between January and December 2022



7.33 The summary of data also contained trends in deprivation appeals and litigation. One particular trend, reported in January 2023, was an increase in allowed appeals due to delays in case handling (discussed in chapter 6), which was being replicated in litigation including pre-action protocol letters and requests for judicial reviews.

7.34 The position statement provided in evidence for the inspection pointed to the high-profile nature of deprivation work, and the significant amount of legal challenge it attracts. The cohorts of cases ‘on hold’ (limbo, nullity, and serve to file cases, also discussed in chapter 6) evidence the extent that lessons are learned from appeals and litigation within the Deprivation Team. A staff member told inspectors:

“We try and learn as fast as we possibly can and make changes. However sometimes it is out of our control as to when the policy or ministerial decisions that are needed are made.”

7.35 Decision makers told inspectors that they found the information circulated by the ALM “useful”, as it provided “food for thought” and facilitated their understanding of how aspects of decisions were viewed by the judiciary. Furthermore, being able to review the language contained in judges’ decisions in deprivation appeal cases was considered helpful by some,

⁵⁰ The Appeals, Litigation and Administrative Review (ALAR) unit is responsible for managing challenges to immigration and asylum decisions, including appeals, judicial reviews, and administrative reviews.

⁵¹ The First Tier Tribunal hears appeals for some decisions made by the Home Office relating to permission to stay, deportation from and entry clearance to the UK. These include some decisions to deprive a person of British citizenship.

when writing their own decision letters. Other staff highlighted to inspectors that in relation to identifying gaps in policy or training needs, “most feedback comes from appeals”.

- 7.36** Although the appeal submission is prepared by ALAR, the Deprivation Team create an appeal ‘bundle’.⁵² Deprivation Team staff told inspectors that in the past appeals against decisions to deprive on the grounds of fraud had been allowed because bundles were not available in good time to support the appeal submission. Inspectors considered this additional step demonstrated how the Deprivation Team used feedback from appeals to improve the efficiency and effectiveness of processes.

Quality assurance, post-decision work, and appeals – conducive to the public good cases

- 7.37** Quality assurance, the tracking and monitoring of appeals, and post-decision work for cases considered for deprivation on the grounds it is conducive to the public good are dealt with by the caseworker responsible for the case.
- 7.38** Following consideration of the case, comments are sought from the Deprivation Team Grade 7 and colleagues in Home Office policy and legal teams before sign-off by a Grade 5. The decision is then sent to the Home Secretary for authorisation.
- 7.39** The Home Office is represented by legal counsel in appeal hearings for decisions to deprive on ‘conductive’ grounds. This reflects the increased stakes of these cases in terms of the national interest, and that decisions are made directly by the Home Secretary, not someone exercising a delegated function on their behalf. The caseworker reviews appeal judgements in conjunction with colleagues in the Home Office legal team and ALAR to identify trends and any lessons learned.

Summary

- 7.40** In line with ICIBI expectations, business processes for deprivation decisions within the Deprivation Team have safeguards, management oversight, and quality assurance measures in place. In recognition of the seriousness of the impact of decisions taken using deprivation powers, approval is required before the decision notice is issued in line with the published guidance and legislation.
- 7.41** Quality assurance was taking place and targets of conducting two quality assessments per decision maker each quarter were exceeded. Results indicated that 91.55% of decisions made between 1 April 2022 and 31 March 2023 met the ‘expected’ or ‘accepted’ standard. Decision notices dip-sampled by inspectors during the inspection appeared thorough and well written.
- 7.42** Staff told inspectors that where a decision maker did not meet the accepted standard, follow-up conversations took place and support was offered to help drive improvements in performance.
- 7.43** Dedicating a team member to reviewing and considering lessons learned from litigation shows a commitment to continuous improvement, and inspectors considered this helped the team identify trends and any policy and training gaps.

⁵² An appeal bundle is a collection of all the documents that are relevant to the deprivation decision, and which the Home Office wish to rely on in court.

7.44 Inspectors found the post-decision appeal checking process was cumbersome and staff were not consistently meeting the target they had set themselves to check the first 50 cases out of 450 in their caseload. The size of the team's current workload suggests that further consideration of this process would be prudent, to ensure effective use of resource and process efficiency.

8. Evidence analysis: training and guidance

ICIBI expectations

- 8.1** The ICIBI’s ‘expectations’ state that anyone exercising an immigration, asylum, nationality, or customs function on behalf of the Home Secretary should be fully competent. Everyone should receive the training they need for their current role and for professional development, as well as regular feedback on their performance.
- 8.2** ICIBI’s ‘An inspection of the review and removal of immigration, refugee and citizenship “status”’ (April – August 2017) reported that caseworkers and managers working in the Status Review Unit (SRU) needed clarity of purpose and to be properly trained and supported.⁵³

Training

- 8.3** The Deprivation Team has a dedicated training team consisting of a Training Manager (Higher Executive Officer) and a Training Officer (Executive Officer). The team is responsible for the design and delivery of training material to all staff across SRU, including induction training, bespoke subject matter training, and ongoing continuous personal development (CPD). In addition, the team delivers ad-hoc training to other teams, including the Special Cases Unit (SCU).
- 8.4** Only one member of the training team held an accredited training qualification, which had been undertaken externally for their own personal development. Another member of the training team told inspectors they had not received any training in relation to their role and believed that formal training would help them deliver better-quality training products.
- 8.5** Despite this, the team had successfully developed a series of induction and training packages for SRU. Inspectors observed that training materials contained learning aims and objectives, and the content appeared well structured.
- 8.6** The training team is supported by two business embedded trainers (BETs) from within the Deprivation Team. The BETs assist the training team with the delivery of inductions, introductions to new IT systems, and general and team-specific training, on an ad-hoc basis.
- 8.7** Training materials are stored within a training folder on SharePoint and are accessible to all staff working within the department, enabling:
- team members to view previously delivered training products
 - training products to be centrally stored with a record of version history
 - easy access to training material for the delivery of future training sessions

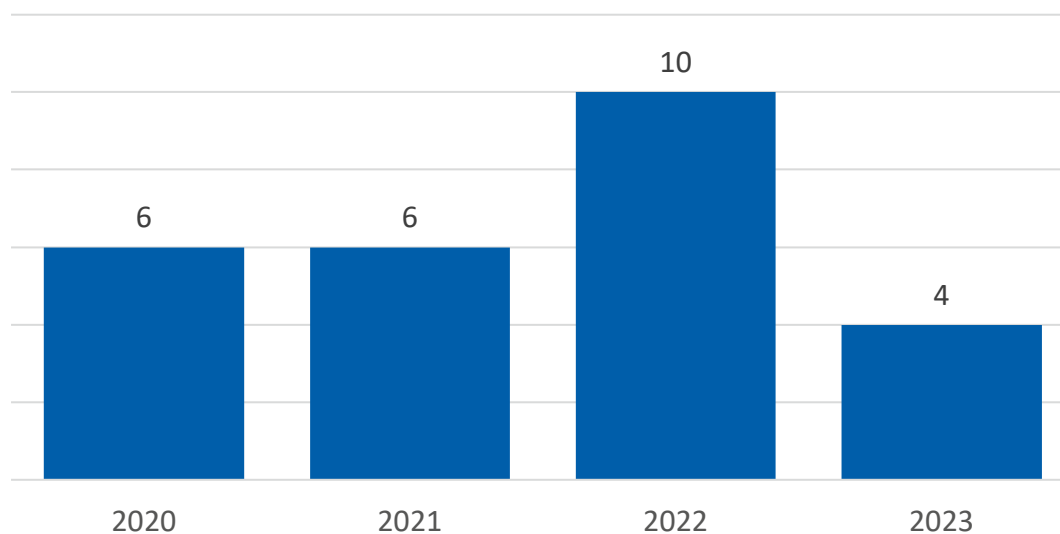
⁵³ Independent Chief Inspector of Borders and Immigration, ‘An inspection of the review and removal of immigration, refugee and citizenship “status”’ (April – August 2017), published 30 January 2018, p.6, <https://www.gov.uk/government/publications/report-on-the-review-and-removal-of-immigration-refugee-and-citizenship-status>

8.8 A member of the training team told inspectors that the team did not record data on the number of sessions delivered, days spent training, or details of those attending training sessions. Furthermore, no record of the time taken to produce and refresh training material was recorded, and without this information it was difficult to assess if the training team was suitably resourced.

Induction training

8.9 Staff told inspectors that the Deprivation Team had 26 new members of staff between November 2020 and May 2023, all of whom received induction training. Details of the induction training by year is demonstrated in Figure 15.

Figure 15: Deprivation Team staff receiving induction training from (2020 to 2023)



8.10 The initial induction training takes place over a two-week period. The first week of the training includes a corporate introduction to the Home Office and provides an overview of the structures, roles, and responsibilities of the Deprivation Team, SRU, and Customer Operations Support Services (COSS) command, within which SRU sits. A basic overview of the IT systems used by the department is also provided.

8.11 The second week of the induction programme provides an overview of the deprivation process and associated legislation and case law, with learning consolidated through simulated case studies.

8.12 Trainees also receive Human Rights training on the differences between absolute, limited, and qualified rights, with practical examples of how each right should be considered.

Learner passports

8.13 Learner passports were first introduced to the Deprivation Team in November 2020, and the design and format of the document has evolved since that time. The document provides a week-by-week record of the training received or specific tasks undertaken while working through a case file. The document enables the user to mark off tasks as completed or identify where further support and guidance is required.

- 8.14** Throughout the induction and mentoring process, the newly appointed member of staff will complete the learner passport. The individual entries within the learner passport are discussed with the learner's mentor and team leader during weekly meetings to assess progress and identify any additional training requirements.
- 8.15** A manager within the Deprivation Team told inspectors that before the learner passport was introduced, no meaningful training records were maintained, saying, "No one was really keeping up with what people were doing, training wise, and we had people who had been on the unit 18 months saying they hadn't had training on certain things."
- 8.16** Decision makers told inspectors that the learner passport was a good method of recording the training they had received, while maintaining focus and providing structure to future tasks.

Mentoring – fraud team

- 8.17** Following initial induction training, new decision makers are allocated a mentor to support and guide them through the following ten weeks of their development.
- 8.18** Mentors are selected from a list of volunteers who have expressed an interest in the role and possess the required level of experience. Although mentors do not receive any specific training for the role, they are selected as their line managers believe that they possess the necessary skills and experience to perform the role.
- 8.19** A manager told inspectors that the number of volunteers for the mentoring role outstrips demand, demonstrating a willingness among staff to offer support and promote self-development. Each mentor is allocated three or four mentees at the induction stage, and they work with these new decision makers on a day-to-day basis.
- 8.20** Decision makers told inspectors that the induction training provided the initial tools required to perform the role, and that the ten-week mentoring programme built on this through practical experience. An experienced decision maker told inspectors that when they started in the unit over ten years ago, the induction training was "non-existent" and described the current training provision as "brilliant".
- 8.21** Progress during the mentoring phase is again recorded and monitored using the learner passport document, which allows the decision maker to tick off completed tasks and processes as they are completed. A team leader told inspectors that during the mentoring process all decision makers' work was thoroughly checked. A decision maker is only able to work independently when they successfully complete five decisions to retain citizenship and three decisions to deprive citizenship.

Training journey – case study

- 8.22** A decision maker described their personal training journey to inspectors and provided an evaluation of the training they received. The decision maker told inspectors that they joined the Deprivation Team in 2020 and had extensive previous experience working across other government departments. They described how they received the induction training online due to the COVID-19 pandemic and told inspectors: "In comparison with my previous employment, the induction process for SRU was very thorough."

- 8.23** All completed training along with each element of the investigation process was recorded daily in the learner passport. The decision maker described how they would receive feedback on their performance. Each week, the passport was sent to the training team and progress was discussed with their line manager and mentor.
- 8.24** Overall, the decision maker found the training useful and well structured. Ongoing training is received as the area of business is complex. One staff member observed: “This is an environment that changes all the time; the training is good and keeps us up to date with changes.”

Fraud investigation training

- 8.25** Following on from the induction course, a further two days of fraud investigation training is provided to new decision makers, teaching them how to develop an investigative mindset, and outlining the intelligence systems available to them. Staff told inspectors that it is not a ‘pass or fail’ course, but the training concludes with a knowledge check to assess participants’ understanding. The training is not accredited to any national or professional standards.
- 8.26** Inspectors reviewed the course content and observed that the training package was thorough and provided a detailed explanation of the key intelligence principles and investigative considerations.
- 8.27** The course objectives include:
- understanding the intelligence cycle
 - understanding how to share and grade intelligence
 - understanding the legality of the investigation
 - explaining how General Data Protection Regulation (GDPR) and the Human Rights Act can impact an investigation
 - describing the principle to develop an investigative mindset
 - understanding the systems, tools, and checks that are available and determine which are appropriate and lawful
 - explaining the benefits of planning an investigation
 - explaining the intelligence functions in the Home Office
 - explaining the intelligence management systems in the Home Office
 - the dishonesty test and associated case law
- 8.28** Decision makers told inspectors that formal accreditation in the investigation of fraud offences would be an advantage. One said: “We’d like that title; I think we’re more than just caseworkers.”
- 8.29** A senior manager within the Deprivation Team told inspectors that the department was reviewing availability and benefits of additional training in this area.

Continuous professional development

- 8.30** Members of the training team told inspectors that they seek feedback from participants at the conclusion of a training session which they used “to reshape the next training cycle”.

- 8.31** The training team also told inspectors that they review the department’s quality assurance reports, new legislation, and case law to identify emerging themes that require refresher training. At the time of the inspection, the training team was working with the Deprivation Team to develop a training package relating to new legislation concerning ‘serve to file’ cases.
- 8.32** Additional and bespoke training was provided following induction, examples of which include:
- open-source internet training
 - best practice in preparing deprivation of citizenship letters
 - awareness of behavioural competencies and situational judgement tests undertaken to gain promotion within the Civil Service
- 8.33** In interviews with staff across the Deprivation Team, inspectors learned that staff turnover was high, which presented challenges in terms of recruitment and retention. One manager told inspectors, “We are losing people left, right and centre to promotion.” Inspectors noted that Deprivation Team members have access to development opportunities which support them to achieve promotion and highlights the team’s positive commitment to develop its staff. A manager told inspectors, “We do a lot with development, and everyone has gone on to bigger and better things.”
- 8.34** In early 2023, managers from across SRU, including the Deprivation Team, attended a training needs analysis workshop organised by the training team. The workshop identified that additional training and upskilling was required in relation to new caseworking processes, managed on the Atlas system. The training team supported the business area through the design and delivery of a training package for all staff across SRU.
- 8.35** Inspectors found that although CPD training was available on an ad-hoc basis, most of the training team’s time and energy was focused on the delivery of induction and Atlas training. A training manager told inspectors that the team did not have the capacity to deliver extensive CPD with the available resources.
- 8.36** A manager within the Deprivation Team told inspectors that following the appointment of the current training manager, training had “massively improved” and described how this had impacted on the business area, saying, “it used to be that you learnt from the person next to you, but now ... it’s brilliant. We’ve had some great caseworkers come through and less people needing additional support.”

Training and mentoring – ‘conductive’ caseworkers

- 8.37** The caseworkers dealing with ‘conductive’ considerations do not receive a formal training and mentoring package because, historically, new team members have previous experience working within the Deprivation Team on fraud cases. Staff working in this area told inspectors that when they moved onto their current workstream, they received guidance and informal one-to-one mentoring from an experienced team member.

Guidance for caseworkers

- 8.38** The ‘Deprivation of British citizenship’ guidance is a 25-page document designed to support caseworkers involved in the decision-making process for the deprivation of British citizenship. The guidance produced by the Migrant Criminality Policy Team sets out the legislative framework, case law, practical considerations, and procedure for caseworkers.

- 8.39** A manager within the policy team told inspectors that the guidance was produced in consultation with the Deprivation Team, lawyers, and operational staff to ensure that it met the needs of the decision makers.

Assessment of the guidance

- 8.40** Inspectors found that the guidance relating to fraud cases was more extensive than that provided on 'conductive' grounds. A senior manager told inspectors that the guidance was produced to aid the fraud caseworkers in decision making, whereas the decision maker in relation to 'conductive' cases is the Home Secretary.
- 8.41** A decision maker from the Deprivation Team told inspectors that the new guidance relating to 'serve to file' cases did not provide the detailed information required to process a case, describing the guidance as "a bit flimsy". The decision maker explained that they were now waiting for a more detailed standard operating procedure (SOP).
- 8.42** Further evidence provided to the inspection team explained that a supplementary SOP had been produced to support decision makers when processing 'serve to file' cases. Inspectors were also informed that the contents of the SOP will be shared with decision makers during training sessions to ensure processes and caseworking systems were in place to support the application of the new guidance.
- 8.43** A manager within the policy team told inspectors that the guidance document had taken a long time to produce and that the Deprivation Team had been involved in its development throughout. Inspectors found that members of the Deprivation Team were aware that guidance was being prepared and legislation brought into force, but that SOPs and associated training were not in place to coincide with the publication of the guidance. This has created a further delay in the processing of cases which have already been on hold for a significant period.
- 8.44** Staff told inspectors that they were consulted about the guidance before it was published and that it contained more information than the previous version. Inspectors found that although all staff had access to the guidance document, some had not referred to it.

Summary

- 8.45** Inspectors found that the training provision across the team had improved since the 2017 Report and that team members felt they were given the appropriate training to perform their role effectively. The training team worked closely with managers to identify development opportunities and adapt training to meet new and emerging challenges.
- 8.46** The training team displayed passion and enthusiasm for the training programme, despite not having received any formal training in their own roles. An investment in members of the training team would improve their ability to design and deliver training, awareness, and CPD packages. The department should review the resourcing and role-specific training required by the training team to ensure they are equipped with the skills, knowledge, and resources to meet the needs of the department.
- 8.47** A positive and supportive culture was evident among team members, and inspectors were told that staff volunteered to support each other through mentoring, training delivery, sharing experiences, and providing advice when required.

- 8.48** The learner passport introduced to support the induction process was seen as good practice, and consideration should be given to sharing this with the wider business.
- 8.49** Recently issued guidance produced in consultation with the Deprivation Team, lawyers, and operational staff was viewed with varying levels of interest from staff members. While some staff found it to be a helpful resource, others were unaware of its existence or found it to be of limited use.
- 8.50** Delays in producing SOPs and associated training to coincide with the publication of the guidance meant that cases which had been on hold for a considerable period of time (awaiting updates to legislation and guidance) could not be processed.

Annex A: Role and remit of the Independent Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48-56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality, and customs by the Home Secretary and by any person exercising such functions on her behalf. The legislation empowers the Independent Chief Inspector to monitor, report on, and make recommendations about all such functions and in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on paragraph 17 of Schedule 3 to the Equality Act 2010 (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within eight weeks of receipt, subject to both Houses of Parliament being in session.

Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

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

Annex B: ICIBI ‘expectations’

Background and explanatory documents are easy to understand and use (e.g. statements of intent (both ministerial and managerial), impact assessments, legislation, policies, guidance, instructions, strategies, business plans, intranet and GOV.UK pages, posters, leaflets etc.)

- They are written in plain, unambiguous English (with foreign language versions available, where appropriate)
- They are kept up to date
- They are readily accessible to anyone who needs to rely on them (with online signposting and links, wherever possible)

Processes are simple to follow and transparent

- They are IT-enabled and include input formatting to prevent users from making data entry errors
- Mandatory requirements, including the nature and extent of evidence required to support applications and claims, are clearly defined
- The potential for blockages and delays is designed out, wherever possible
- They are resourced to meet time and quality standards (including legal requirements, Service Level Agreements, published targets)

Anyone exercising an immigration, asylum, nationality or customs function on behalf of the Home Secretary is fully competent

- Individuals understand their role, responsibilities, accountabilities and powers
- Everyone receives the training they need for their current role and for their professional development, plus regular feedback on their performance
- Individuals and teams have the tools, support and leadership they need to perform efficiently, effectively and lawfully
- Everyone is making full use of their powers and capabilities, including to prevent, detect, investigate and, where appropriate, prosecute offences
- The workplace culture ensures that individuals feel able to raise concerns and issues without fear of the consequences

Decisions and actions are ‘right first time’

- They are demonstrably evidence-based or, where appropriate, intelligence-led
- They are made in accordance with relevant legislation and guidance
- They are reasonable (in light of the available evidence) and consistent
- They are recorded and communicated accurately, in the required format and detail, and can be readily retrieved (with due regard to data protection requirements)

Errors are identified, acknowledged and promptly ‘put right’

- Safeguards, management oversight, and quality assurance measures are in place, are tested and are seen to be effective
- Complaints are handled efficiently, effectively and consistently
- Lessons are learned and shared, including from administrative reviews and litigation
- There is a commitment to continuous improvement, including by the prompt implementation of recommendations from reviews, inspections and audits

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

- The BICS ‘owner’ is accountable for
 - implementation of relevant policies and processes
 - performance (informed by routine collection and analysis of Management Information (MI) and data, and monitoring of agreed targets/deliverables/budgets)
 - resourcing (including workforce planning and capability development, including knowledge and information management)
 - managing risks (including maintaining a Risk Register)
 - communications, collaborations and deconfliction within the Home Office, with other government departments and agencies, and other affected bodies
 - effective monitoring and management of relevant contracted out services
 - stakeholder engagement (including customers, applicants, claimants and their representatives)

Annex C: Table of legislation

| The British Nationality Act 1981 (as amended) | |
|---|--|
| Section 40(1) | Defines citizenship status in relation to: a British citizen, a British overseas territories citizen, a British overseas citizen, a British national (overseas), a British protected person, or a British subject |
| Section 40(2) | Secretary of State (SoS) power: deprivation where “conducive to public good” |
| Section 40(3) | SoS power: deprivation where citizenship is obtained by fraud, false representations, or concealment of material facts |
| Section 40(4) | Limitation on the SoS’s power to deprive where “conducive to public good” The individual concerned must not be left stateless, except in specific circumstances outlined in 4(A)(a),(b)&(c). This is not a requirement where citizenship was obtained fraudulently |
| Section 40(5) | Requirement for the SoS to give individual concerned written notice of deprivation decision. Amended by the Nationality and Borders Act, section 40(5)(A)-(E), which came into force on 10 May 2023 |
| Section 40A(1) | A person who is given notice under section 40(5) of a deprivation decision under section 40 has a statutory right of appeal to the First Tier Tribunal |
| Section 40A(2) | The statutory right of appeal does not apply where the SoS has certified the decision wholly or partly in reliance on information which in the SoS’s opinion should not be made public for (a) national security, (b) international relationships, or (c) otherwise in the public interest |
| The Nationality, Immigration and Asylum Act 2002 | |
| Section 4 Amends sections 40(1) to (6) & 40A(1) to (8) of the BNA 1981 | SoS power: deprivation of citizenship extended to British-born nationals for the first time. Legislation enacted 1 April 2003 Prior to 1 April 2003, deprivation of citizenship was limited to naturalised citizens, i.e., those not British born Defines six types of British citizenship that can be deprived for the first time (see British Nationality Act section 40(1) above) |
| Asylum and Immigration (Treatment of Claimants, etc) Act 2004 | |
| Schedule 2, part 1, para 4 | Power to remove the right to continued British citizenship pending appeal against a decision to withdraw it. Applies in conducive deprivation cases only |

| Immigration, Asylum and Nationality Act 2006 | |
|--|---|
| Section 56 Amends section 40(2) of Nationality, Immigration and Asylum Act 2002 | This changed the test for deprivation of citizenship from “seriously prejudicial to the vital interests of the United Kingdom” to “conducive to the public good” |
| Immigration Act 2014 | |
| Section 66 Amends section 40(4A) BNA 1981 | Limitation to SoS’s power to deprive where “conducive to public good”. Individual concerned must not be left stateless, except in limited circumstances outlined in 4(A)(b)&(c) This is not a requirement where citizenship was obtained fraudulently |
| Section 66 Amends section 40(4)(B) (1) BNA 1981 | The SoS must arrange for a review of the use of the power under 4(A) (b)&(c) where a conducive deprivation decision is made resulting in statelessness |
| The Nationality and Borders Act 2022 | |
| Section 10(5)(a)&(b) | SoS power: enables the SoS to withhold giving notice of deprivation to the subject of the deprivation, under certain conditions |
| Schedule 2, para 1(2) | Requirement for judicial oversight of SoS powers exercised under section 10(5)(a)&(b) |
| The Special Immigration Appeals Commission Act 1987 | |
| Section 2B | A person may appeal to the Special Immigration Appeals Commission against a decision to make an order under section 40 of the British Nationality Act 1981, if they are not entitled to appeal under s.40(A)(1) because of certification under s.40(3)(a) |

Annex D: Deprivation Team marking standards

Decision to deprive citizenship marking standards

| Assessment criteria | Correct | Minor | Significant | Fail | Minor | Significant | Fail |
|--|---------|-------|-------------|------|--|--|---|
| Has CID been updated correctly and appropriately to reflect case progression? | ✓ | ✓ | ✓ | | Some minor admin events not updated. Case is showing at wrong stage. | A relevant field has not been correctly updated, e.g. the recording of a special condition, leading to errors that cause significant weakness to the case. | N/A |
| Have the representative details and current home address been recorded correctly? | ✓ | ✓ | ✓ | ✓ | Minor errors in representative details. | Representative details not updated or incorrect information entered and no sensitive information sent to representatives. Incorrect address detailed on CID. | Sensitive information sent to third party resulting in a Data Protection breach. |
| Does the decision letter state clearly the true identity and any false identities identified? | ✓ | ✓ | ✓ | ✓ | Mis-spelling of any part of an identity. | All identities are included but it is unclear which are true or false. | Some identities are missing or wrong identities are used. |
| Does the decision letter confirm that an investigation letter was previously sent, and the caseworker has appropriately considered the response? | ✓ | ✓ | ✓ | ✓ | It is clear that the response was considered but there is no reference to the investigation letter being sent out. | Reference to investigation letter being sent out but no evidence of appropriate consideration. | No reference to letter being sent out and no evidence of appropriate consideration of response. |
| Does the decision letter clearly explain the reasons for deprivation referencing the material fraud? | ✓ | ✓ | ✓ | ✓ | Explains the reasons for deprivation and addresses some but not all material fraud. | Explains reasons for deprivation but no reference to material fraud. | No explanation of reasons for deprivation or material fraud. |
| Does the decision letter contain a clear and coherent timeline of events? | ✓ | ✓ | ✓ | ✓ | Timeline is either not clear or not coherent. | Timeline is not clear and not coherent. | No timeline is included. |

| Assessment criteria | Correct | Minor | Significant | Fail | Minor | Significant | Fail |
|--|---------|-------|-------------|------|--|---|--|
| Does the decision letter quote the relevant guidance? | ✓ | ✓ | ✓ | | Evidence that correct guidance was used, however incorrect guidance document referred to. | Decision letter does not quote the relevant guidance. | N/A |
| Has ECHR been addressed correctly including referencing any information provided in mitigation? | ✓ | ✓ | ✓ | ✓ | Stronger arguments could have been made but does not detract / affect the outcome of the decision. | Insufficient consideration which requires corrective action for the decision to withstand appeal. | No consideration given to other Articles of the ECHR when they have clearly been raised by the subject in mitigation. |
| Has the letter correctly considered the proportionality of deprivation? | ✓ | ✓ | ✓ | ✓ | Some consideration apparent, sufficient to demonstrate proportionality consideration. | Inadequate proportionality arguments mean the decision is vulnerable to appeal. | Proportionality not addressed. |
| Is the grammar and spelling correct, has plain English been used and is the decision professionally drafted? | ✓ | ✓ | ✓ | ✓ | Basic presentation errors (i.e., an illogical order, paragraphs not numbered, grammar and spelling mistakes, over-complicated words / sentence structure used), however, they were not significant enough to detract from the quality of the decision. | There are a number of grammar and spelling mistakes that significantly detracted from the overall quality of the decision. | Inappropriate or derogatory language has been used. The quality of the language was so poor that it was not possible to fully understand the reasoning behind the decision. This would leave it open to challenge and potential reputational damage to the HO. |
| Have the correct templates been used to draft the letter and DPF1? | ✓ | ✓ | ✓ | ✓ | Incorrect template used to complete DPF1 and / or letter. | Old letter templates have been used without updated wording resulting in inaccurate correspondence being served and leaving the HO open to challenge. | Old letter templates have been used without updated wording resulting in the decision being fundamentally incorrect and open to challenge. |

| Assessment criteria | Correct | Minor | Significant | Fail | Minor | Significant | Fail |
|--|---------|-------|-------------|------|--|--|--|
| Has the letter template and DPF1 been completed correctly and are they present on Doc Gen? | ✓ | ✓ | | ✓ | Correspondence has been printed directly from Doc Gen, but the correspondence contains minor errors that slightly detracts from the overall quality of the letter. Overall decision has not been affected. | N/A | Letters/notices have not been printed directly from Doc Gen, therefore no electronic records on CID. |
| Is all evidence that is relied upon in the decision letter relevant, and disclosable? | ✓ | ✓ | ✓ | ✓ | Inclusion of evidence that is not relevant to the decision. | Included non-disclosable evidence that the decision is not wholly reliant on. | Includes non-disclosable evidence that undermines the decision or decision relies solely on irrelevant evidence. |
| Is all evidence correctly annexed in the DPF1? | ✓ | ✓ | ✓ | ✓ | Evidence in the annex that is not referenced in the letter so is irrelevant. | Discrepancies between the annex and the letter – e.g., annex A does not contain the expected evidence – it is actually at annex B, or annexing is not in accordance with current guidance – e.g. not in chronological order. | Evidence missing from the annex that is referred to in the letter. |

Decision to retain citizenship marking standards

| Assessment criteria | Correct | Minor | Significant | Fail | Minor | Significant | Fail |
|---|---------|-------|-------------|------|--|---|--|
| Have all mandatory security checks been made and does CID correctly reflect the results of those checks? | ✓ | | | ✓ | N/A | N/A | The mandatory security checks had not been done prior to the case being decided OR the checks have expired, and this has not been picked up. |
| Has the decision maker confirmed that all aliases have been identified? Have all aliases been included in the checks? | ✓ | | | ✓ | N/A | N/A | Aliases have not been added to CID thus compromising security checks and delaying case progression. |
| Has the caseworker correctly interpreted the results of the mandatory checks and taken appropriate action? | ✓ | ✓ | ✓ | ✓ | Contained an interpretation error but this did not detract from the overall consideration and does not affect the decision outcome. | An error which detracts from the quality of the consideration, e.g., an incorrect reliance on a spent conviction. | The results of the mandatory checks have been incorrectly interpreted and this affects the consideration process / decision such that the outcome cannot necessarily be relied upon. |
| Have all risks been identified including vulnerable persons, press interest, reputational damage and litigation casework and escalated accordingly? | ✓ | ✓ | | ✓ | Some minor risks factors identified, further interaction with other teams could have reduced any risk further. Some drafting errors. | N/A | Risk factors have been missed (indicators on file but referral not made, etc.). Lack of action has resulted in reputational and financial damage to the business. |
| Has a relevant referral been made when safeguarding is appropriate? | ✓ | | | ✓ | N/A | N/A | Safeguarding policy has not been followed exposing the subject to risk of harm and the HO to reputational risk. |

| Assessment criteria | Correct | Minor | Significant | Fail | Minor | Significant | Fail |
|--|---------|-------|-------------|------|--|--|---|
| Has the caseworker correctly identified if indicators from other teams are present? Has the caseworker referred any concerns to the correct team, if required? | ✓ | | ✓ | ✓ | N/A | The referral was incomplete, however this was not detrimental to the overall decision. | There is a flag or indications from the application / file that there are concerns which have not been referred to by the caseworker. This could result in failure to identify individuals who pose a risk to the UK and potential for significant reputational damage. |
| Has the evidence and all mitigation been correctly assessed, applying the correct burden and standard of proof to address material deception? | ✓ | ✓ | | ✓ | Further evidence available that could have strengthened the decision, however it is not referred to. | N/A | Evidence is not correctly assessed or relevant evidence that would change the decision is omitted, or burden / standard of proof incorrectly applied. |
| Is the decision to retain citizenship correct? | ✓ | | | ✓ | N/A | N/A | No. |
| Has the decision been appropriately evidenced and justified? | ✓ | ✓ | ✓ | ✓ | Decision evidenced but justification could be improved. | Evidence missing or misinterpreted but decision is still sufficiently justified. | Lack of evidence or lack of justification. Failure to exhaust all appropriate channels to acquire evidence that could impact the decision. |

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