
Acknowledgements

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Overview

A parent's deportation can be life-changing for children, with the potential to separate them from a parent indefinitely or for them to be removed from the UK with them. Deportation and the - often years long - challenges around deportation can have profound impact on children's short and long term development, wellbeing, education and life chances. We found evidenced examples of children developing mental health problems, regressing developmentally, struggling at school, and even being taken into care, because of the financial, emotional and other stresses of a parent facing deportation.

Despite the severity of the issues, there is no official data recording the number of children affected by parental deportation, but it is likely to be several thousand and growing. The UK deports a growing number of foreign national offenders each year (5,000 in 2024), with a much larger number - around 20,000 people - subject to deportation proceedings. Although there are legal safeguards to ensure that deportation decisions protect the welfare (or 'best interests') of any affected children, very little is known about the extent to which children's welfare is actually assessed and brought to bear on decisions to deport parents. This research seeks to fill that gap.

The study is published in a context of renewed political focus on immigration enforcement and forced removal. During the writing of this report, the Government announced reforms to the deportation system, including new procedures that will allow for removal of foreign national offenders at an earlier stage of a prison sentence or even when they do not receive a custodial sentence. The study also coincided with the revival of the 'deport first, appeal later' policy in 2023 and its expansion in 2025, with little indication as to how such a policy will operate for those with children in the UK.

The timing of this report is particularly prescient given the Labour Government's plans to set out a "new family policy", the stated aim of which is to

"...make clear it is the government and Parliament that decides who should have the right to remain in the UK. This will address cases where Article 8 right to family life legal arguments are being used to frustrate deportation where removal is clearly in the public interest."

Children barely feature in the policy debates or reforms relating to deportation, despite the fact that thousands of children are profoundly affected by deportation every year, and often for many years. This report seeks to address this gap, providing new insights into how children's welfare is considered and could be brought to bear more meaningfully on the deportation decision-making process.

Scope of the study

This report is the first empirical evaluation of the legal and procedural protections afforded to children whose parent is subject to deportation proceedings. Drawing on a review of the legal and procedural framework, alongside an in-depth analysis of legal case files, the study looked at the timeliness, rigour and consistency with which children's welfare was assessed and influenced decisions to deport their parents. The study analysed a sample of deportation cases involving 45 children and young people from the period 2018-2023. Those cases were dealt with by two specialist organisations with leading expertise in deportation proceedings and in children's welfare assessments (Bail for Immigration Detainees and Social Workers without Borders). As such, they benefited from premium expert representation and guidance that is not available to most people, whose experiences are likely to be worse than those presented in this report. And yet even with that expertise, we found a range of shortcomings in the ways that the law is being implemented, primarily by the Home Office. This impacted on the length, complexity and cost of the process and quality of legal decisions. This has significant implications for children's safety, development, wellbeing and family relationships, in breach of existing legal and procedural obligations. This also draws on public resources and impacts community stability.



20,000

At least 20,000 adults are liable to deportation



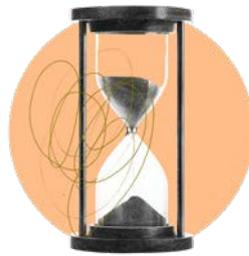
26 WEEKS

is the statutory time limit for child protection proceedings in the family courts



8,000

children in the UK have a parent facing deportation



5.2 YEARS

is the average time families spent in deportation proceedings

Life-changing decisions for children are being made on the basis of little or no information



The Home Office is not meeting its legal duty to safeguard children



There is no opportunity for children to be heard in deportation proceedings



A parent's deportation causes children significant & wide-ranging harm including:

**POVERTY, DEPRESSION
ANXIETY, STRESS
DEVELOPMENTAL REGRESSION
DIFFICULTIES AT SCHOOL
HEALTH PROBLEMS
GOING INTO CARE
YOUNG CARERS
RISK OF CHILD EXPLOITATION
SEPARATING SIBLINGS
LONGTERM HARM**



Key Findings

Our findings and recommendations relate to four issues:

- Legal **Representation** in deportation proceedings
- **Rigour** of evidence-gathering in deportation proceedings
- The **Reliability** of evidence in deportation proceedings
- The **Reasoning** used in deportation decisions

Representation

- It is extremely hard to navigate the system and provide family life and children's welfare evidence without good quality, specialist legal representation. Despite the potential severity of the impact of deportation, however, there is no clear entitlement to legal aid for advice and representation, *even for children facing long term or permanent separation from a parent*. While it is possible to apply for Exceptional Case Funding on human rights grounds, this is a highly complex process to navigate without legal help.
- Technically, children could independently appeal a parent's deportation on human rights grounds as Human Rights Act 'victims'. However, this rarely, if ever, happens as the decision under appeal pertains to the parent. The rights and interests of the parent are assumed (not always correctly) to be coterminous with those of the child, leaving children dependent upon the ability of their parents to launch appeals.
- Children facing a parent's deportation do not generally have access to their own legal representation. This contrasts markedly with public family care proceedings concerned with separating parents and children. In these cases, children have a separate court-appointed and funded social worker and legal representative.
- When families are not legally represented, decisions about children's future tend to be made on insufficient and partial information. Deportation decisions made on the basis of sparse welfare assessments are more likely to be appealed, increasing uncertainty, costs and delays, often for many years. In our sample the average length of deportation proceedings was 5.2 years. This harms children and families and places unnecessary strains and costs on the justice system.
- By contrast, in family court proceedings where a child may be separated from a parent, the collection and assessment of detailed evidence pertaining to the child is automatic, resourced and independent. Such proceedings have a statutory limit of 26 weeks.

Recommendations

1. **Legal aid:** Parents subject to deportation should be brought within the scope of legal aid, to pay for timely and appropriate legal advice and representation. There should be a presumption in favour of granting Exceptional Case Funding for deportation cases involving children.
2. **Representation of children:** Children should have access to legal aid to support their own, separate legal representation. Children should also have the independent expectation (or rebuttable presumption) of being entitled to launch their own challenge relating to deportation decisions which adversely affect their family life. This would bring the immigration tribunal in line with other judicial processes overseeing the separation of children from their parents, such as public family proceedings.
3. **'Deport first, appeal later' policy:** Given the serious safeguarding risks involved in separating children from their parents, in 'deport first, appeal later' cases, a full and independent expert assessment of each potentially affected child must be completed *before* deportation, as part of the HO's screening of suitability for the scheme. See also Recommendation 7.

Rigour

- A lack of sufficient evidence of the quality of family life and children's best interests hampered the ability of decision makers to make good quality decisions. This led to legal appeals and further applications, greatly increasing the time, costs and harms involved to families and the public purse.
- Despite detailed legal guidance, a legal requirement to protect children's welfare in deportation proceedings, and a broader duty on public authorities to take reasonable steps to gather all the relevant information to enable them to make a decision, Home Office evidence-gathering to inform deportation decisions is typically restricted to sending the deportable parent a short list of documents they could provide to prove they have a 'genuine and subsisting' relationship with a 'qualifying' child or partner. *We did not find any evidence of the Home Office proactively seeking out more substantial information to determine the potential impact of the deportation on children's welfare.*
- Where there are gaps in evidence submitted by parents, the Home Office does not routinely seek further information or clarification relating to children. Rather, in our sample it drew adverse inferences and interpreted insufficient evidence as meaning that the claimed family life did not exist.
- Despite national and international recognition of the importance of enabling children to participate in decisions that may lead to them being separated from a parent, *we found no evidence of the Home Office seeking children's participation or ascertaining their views or wishes regarding the potential impacts of deportation on their lives and wellbeing.*

- Little is known about the welfare and outcomes for the thousands of children affected by deportation every year, either by the 'stay' assumption where they are separated from their parent across borders, or the 'go' assumption where they are sent with their parent to a country that they may not know (or even be a national of). There are significant gaps in the collection, disaggregation and publication of official data regarding deportees' families. Notably, there is currently no available data on: how many parents with dependent children are deported; how many children are left behind, taken into the care of another family member, or into the care of the local authority; how many children are removed with their parents; or how many of those children are British citizens; . This inhibits proper understanding of the scale and specifics of children affected by parental deportation.

Recommendations:

4. **Clarification of evidence requirements:** The Home Office should provide families with clearer and more accessible guidance in the 'One Stop Notice' as to the forms of evidence or submissions they could provide to identify and particularise quality of family life and children's needs, views and wishes. The purpose of this should be to support parents in providing evidence, and to ensure that the Home Office has sufficient information at the earliest possible point to inform their decision-making, in line with their statutory duties.
5. **Professional curiosity and accountability:** Where family life evidence is lacking, the Home Office should be required to discharge their duty to seek out additional or alternative evidence to inform its decision making. The Home Office should be also compelled to provide a detailed response to the specific information as it relates to each family member and how this has been brought to bear on deportation decisions. Fulfilment of this duty should be supervised and enforced by the Court if required.
6. **Data collection:** Official data should be collected, disaggregated and shared to reveal: the number of people subject to Deportation Orders each year; whether they have children in the UK; how many of those children are British citizens; how many deportees invoke family life rights and the outcomes of such claims; the number of children who leave the UK with a deported parent; and the number of children who remain in the UK without their deported parent, including the number subsequently taken into Care.

Reliability

- Our research found independent expert assessments to be the strongest forms of evidence of family life and children's best interests. They significantly aid assessment of the potential impacts of parental deportation on children. By facilitating good quality decision making, such reports can potentially help avoid unnecessary time, cost and harm of lengthy deportation proceedings.
- International and domestic guidance is clear that expert best interests assessments are required for decisions to deport a parent. However, even though deportation often has the potential to permanently separate UK children from their parents, domestic guidance is largely silent on *when* and *how* such assessments should take place in parental deportation. We found *no instance* of the Home Office, either at the decision-making or appeal stage, requesting, facilitating or commissioning expert evidence. The immigration tribunal - as an inquisitorial body - cannot request additional evidence relating to the welfare of the child (unlike the family courts), even when there is a paucity of welfare information.
- The onus is therefore on deportable parents to commission expert assessments of family life and the potential impact of deportation on children. They face multiple practical and financial barriers in this, especially without legal representation and access to legal aid funding. An independent expert welfare assessment costs around £1,500 - £2,000. It is reasonable to assume that despite the guidance, in many parental deportation cases such assessments are not carried out, meaning that life-changing decisions for UK-children are being made on the basis of little or no consideration of their welfare.
- Because it is up to the discretion and resources of families to commission assessment of their family life, expert reports are often only procured late in deportation proceedings, potentially after several years challenging a deportation order. This stands in stark contrast to family separation cases in family law, where an independent report into children is always proffered and from the outset of proceedings.
- Even if expert welfare assessments are procured to inform deportation decision-making, there is no specific procedural guidance on how experts should conduct them. Of the cases we analysed, welfare assessments conducted by independent social workers were the most detailed, objective and comprehensive forms of family life evidence and were the most likely to involve some direct engagement with the child. In the absence of any specific guidance for deportation-related welfare assessments, most assessors drew on the child welfare assessment standards applicable to family law proceedings such as the Children Act 1989 (s.1(3)) and the Common Assessment Framework 2000, but this is neither routine nor interpreted as formally required by law in relation to immigration decisions.

1. Children and Family Court Advisory and Support Service (Cafcass) is an independent body that represents the interests of young people in family court cases in England. It supports over 140,000 children every year.

Recommendations:

7. **Independent welfare evidence:** Independent expert assessment of children and families is essential in ascertaining children's best interests and making good quality parental deportation decisions. Deportation decisions potentially affecting UK children should automatically trigger full and independent assessment of each child's welfare, wishes and feelings; at the earliest possible stage in proceedings (including before deportation in 'deport first, appeal later' cases). To retain their integrity, such assessments must be conducted by independent and qualified child experts. We recommend that this is overseen by a body independent of the Home Office. This will bring deportation proceedings affecting children in-line with other forms of family separation. Extending CAF/CASS's¹ existing role and expertise into deportation decisions may be the most straightforward and financially-efficient way of doing so.
8. **Extend tribunal powers:** The immigration tribunal (or if introduced, alternative judicial decision-making bodies) should be given more investigatory powers in cases of parental deportation to bring it in-line with the Family Court. If in a parental deportation appeal there is insufficient evidence of children's best-interests and their wishes and feelings, the Tribunal should be able to order the procurement of such evidence (such as a court-appointed independent social worker report) and, where necessary, through direct representation of the child.

Reasoning

- The legal assumption that deportation is in the 'public interest' does not take into consideration the public interest of promoting healthy and happy families and ensuring that children have good starts to their lives. If deportation decisions do not sufficiently weigh up the impact on children's welfare and development, it can cause profound, additional risks that are incompatible with the public interest. This includes the short- and long-term impacts for society of children and families experiencing ongoing health and financial problems, including increased risks of children being taken into care, becoming carers themselves, or being subject to criminal and other forms of exploitation.
- We found significant differences between the two decision-makers in deportation cases (the Home Office and the Immigration and Asylum Chamber ('immigration tribunal')) in how they engaged with children's best interests and responded to expert evidence. In our sample, the Home Office routinely underplayed the impact of a parent's deportation on children and sometimes omitted any reference to children in correspondence and decisions. Where independent expert reports were provided, the Home Office routinely refuted or rejected them outright with little justification or engagement with the issues raised.
- We found little evidence that the Home Office engages with the requirement set out in law and the practice guidance to consider each

family member separately as individual Human Right Act 'victims'. There was no evidence of the Home Office treating the child's best interests as a *primary consideration* before assessing them against other countervailing factors as required by law. There was little evidence of the Home Office taking a *prospective* approach to best interests assessments, to consider not just the specific moment of the decision but also possible short and long term scenarios. There was, for example, little attempt by the Home Office to consider the possible impact of a parent's deportation on the remaining caregivers' physical and mental health, income or ability to parent, or on children's future vulnerabilities, life chances and relationships. Consideration of the future by the Home Office was largely limited to suggesting the deported parent could maintain contact using 'modern communication methods' like video calls.

- We found several instances of the Home Office not following the guidance. This included foregrounding a parent's offending when assessing children's best interests, and stating an intention to deport someone despite ongoing family court proceedings.
- The Home Office made numerous unfounded and unrealistic presumptions that public services – such as the NHS or social services – will automatically and swiftly step in to fill gaps in support for children and families in need following a parent's deportation. This takes no account of current resource constraints on public services and waiting times.
- For all these reasons, we find that the *Home Office is not meeting its duty to safeguard children under Section 55 of the Borders, Citizenship and Immigration Act 2009 and is putting children at risk of harm.*

Recommendations:

9. **Following existing guidance:** Home Office decision makers should be better informed of and adhere to existing guidance. This includes the requirement to consider each family member separately; to treat the child's best interests as a *primary* consideration; to take a prospective approach to consider future impact; to ensure that parents' criminal history does not overshadow the assessment of the potential harm to children; and that deportation decisions await the outcome of Family Court proceedings.
10. **Independent inspection:** The Independent Chief Inspector of Borders and Immigration should schedule an urgent inspection of the Home Office's procedures around deportation decisions affecting children (including but not limited to 'deport first, appeal later' cases involving parents).
11. **'Public interest' and deportation:** Further analysis and debate is needed regarding the substance of 'the public interest'. We suggest it should include consideration of the societal and financial costs of separating families, and the short and long-term impacts of parental deportation on children's health, wellbeing, integration and education.

Thousands of children are affected every year by the deportation of their parents, and yet little is known about the extent to which their welfare is considered and safeguarded the process. Drawing on real-life deportation cases, this report presents the findings of the first in-depth study to address this gap. It shines a light on the routine and widespread failure to bring children's welfare to bear on deportation decisions, and the profoundly damaging impacts of this for children's wellbeing and outcomes.



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