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Requests for Citizenship Ceremonies

Standard Operating Procedure (SOP)

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1. Purpose

1.1. Requests for citizenship ceremonies from clients and hosts

The Department of Home Affairs (the Department) regularly receives correspondence from clients who have received their approval for citizenship and wish to attend their ceremony as soon as possible rather than waiting for their allocated ceremony.

There are a number of reasons that a client will do so, the most common of which include to obtain an Australian passport for use with overseas travel (for commitments, family reasons or personal travel), or to meet employment conditions or deadlines for HECS-HELP study loans.

The Department also receives regular correspondence from individuals or groups who are seeking to host an Australian citizenship ceremony, often as part of a larger event.

It is important that the Department has a consistent approach to these requests in the interest of fairness and to be maintaining reliable advice. This can also prevent instances of embarrassment to the Department.

2. Scope

2.1. In Scope

This SOP refers to requests from clients who have already been approved for citizenship by conferral and who are requesting:

- A quicker ceremony, with no justification or urgency provided
- A private, urgent or special purpose ceremony
- For the location of their ceremony to be changed to allow for quicker processing

It will outline the most common reasons that clients will request a ceremony to be brought forward and provide guidance on assessing whether to facilitate these requests.

This SOP will also provide guidance on managing requests to host an Australian citizenship ceremony from interested individuals and groups.

It will outline:

- How to respond to these requests
- Who is responsible for managing these requests

2.2. Out of Scope

This SOP does not cover:

- Complaints about citizenship ceremonies
- How to conduct a private, urgent or special purpose citizenship ceremony
- Approaches by the Department actively seeking interested community groups to host citizenship ceremonies around Australia Day or Australian Citizenship Day.

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3. Standard Operating Procedure

3.1. How requests are received

The majority of requests will be received directly to State and Territory ceremony group mailboxes (e.g. s. 22(1)(a)(ii)) that are listed on official correspondence from the Department, or on the Department's website.

Mailbox auto responses may address some requests – these requests should be noted in ICSE as “addressed by Ceremony [State] mailbox auto response” and any correspondence saved to TRIM. Copies of auto responses should also be kept in TRIM.

The Department should respond directly to these emails, ensuring an appropriate record of the exchange is added to the client's records – either through TRIM and/or noting the request on the client's ICSE record.

Requests may occasionally be received through Ministerial Correspondence (MinCorro) to one of the Home Affairs Portfolio Ministers. Priority A and B MinCorro should be managed by the Stakeholder Engagement and Citizenship Ceremonies (SECC) team in National Office. Priority C, D and E MinCorro is managed by the Immigration Business Management and Coordination team. It is the responsibility of the SECC team to ensure standard wording for Priority C, D and E correspondence is in line with this SOP.

These responses should be processed through the Parliamentary Document Management System (PDMS) at the appropriate priority level and the PDMS number noted on the client's ICSE file, if applicable.

Requests may also be received to the Ministers' Electorate or Parliamentary Office, and forwarded to the Department on behalf of constituents, electoral offices, organisations or political colleagues.

These requests should be considered, and advice provided back to the Departmental Liaison Officers by the SECC team consistent with this SOP. Requests from the offices of elected representatives (local, state or federal) should be recorded and actioned by SECC in the tracking document ADD2019/2235495.

3.2. Urgent or Private Citizenship Ceremonies

Under the Australian Citizenship Policy (VM-1545) and Citizenship Procedural Instruction 24 – Pledge of Commitment and Citizenship Ceremonies (VM-5300), an urgent ceremony can be facilitated where an approved client has demonstrated that they meet exceptional circumstances as a result of not being an Australian citizen.

Urgent ceremonies are no longer advertised on the Department's website and are not the preferred means for a person to make the pledge of commitment. However, all applications for urgent ceremonies must be considered on their merits.

A private ceremony, held in a private residence or venue such as a hospital, may be arranged where a candidate is unable to attend a public ceremony, for example due to injury.

When making this assessment, officers should consider whether the request contains circumstances which are unforeseen, urgent and compelling. Also consider the principles outlined in Citizenship Procedural Instruction 12 – Assessing Significant Hardship or Disadvantage (VM-5289).

If the client's situation is exceptional, the Department can approve an urgent or private ceremony. Assess the circumstances according to the table below. The table does not cover all scenarios and is intended to provide a guideline. Consider each case on its individual circumstances.

Other factors to consider are whether the client has, or can apply for a Resident Return Visa (RRV) and the time since their approval. Those that have been waiting more than six months may be given more weight.

NOTE: This assessment should only be used for clients who have already been approved for citizenship.

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Table 2 – Assessment of Urgent or Private Citizenship Ceremony Requests

Client Request	Departmental Response
Travel	<p>APPROVE (with evidence):</p> <ul style="list-style-type: none"> Visit a close family member who is terminally ill Attend a funeral of a close family member Receive urgent medical treatment in another country that the client cannot receive in Australia Attend legal proceedings in person Accompany a sick/elderly relative for one of the reasons above <p>REFUSE:</p> <ul style="list-style-type: none"> Holidays Business trips Weddings and other family occasions Legal proceedings where the applicant may be represented without attending in person Do not want to pay for a Resident Return Visa when the person has access to a valid passport of another country or could reasonably be expected to acquire one. Cannot provide evidence when requested <p>Note – Consider that protection visa holders and humanitarian visa holders may not be able to travel on their foreign passport</p>
Representing Australia – Academic/Sporting	APPROVE with evidence from the relevant governing body (e.g. Australian Olympic Committee).
Work	<p>APPROVE (with evidence of offer/employment):</p> <ul style="list-style-type: none"> Defence force personnel Clients who will work for the Australian Government (overseas or in Australia) who need to be an Australian Citizen to be employed Clients who need to be an Australian Citizen to be employed for a job they have been offered who have been waiting more than six months for a ceremony <p>REFUSE:</p> <ul style="list-style-type: none"> Clients who have applied/shown interest in a job but not received a letter of offer Clients who want to work overseas (may require intention to reside assessment) Clients where Australian citizenship is preferable for the job, but not required, or where evidence of ongoing application for citizenship is adequate Client is moving overseas due to their spouse's overseas employment, with the exception of spouses accompanying Australian Government diplomatic postings. Clients who are required to travel for their current job
HECS-HELP study loans or fee help	<p>APPROVE:</p> <ul style="list-style-type: none"> The client has been waiting more than six months for a ceremony from the date of approval <p>REFUSE:</p> <ul style="list-style-type: none"> The client has been waiting less than six months from the date of approval

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Client Request	Departmental Response
Health/Security (for private ceremony)	<p>APPROVE:</p> <ul style="list-style-type: none"> The client can provide evidence of their inability to attend a public ceremony for health or security reasons <p>REFUSE:</p> <ul style="list-style-type: none"> The client cannot provide evidence The client would prefer to attend a ceremony alone, but has no compelling justification

In some cases, clients may be asked to provide evidence to support their request, such as evidence of offers of employment or medical circumstances.

Evidence should satisfy officers that the urgent ceremony request is genuine and should be saved to TRIM records.

3.2.1. Matters for escalation

All requests being considered for approval should be escalated to an APS6 or EL1 officer (the decision maker) and include the reasons why the client meets the criteria for an urgent ceremony.

Factors to be taken into consideration and included in the business case (an email is appropriate) to the decision maker include:

- Timing – when is the next ceremony scheduled at the client's local council? Could attendance at this ceremony meet their needs?
- Client location – can the client reasonably travel to a Departmental office for a private ceremony? If not, can the local government council host the ceremony in the necessary time frame?
 - It is preferable for the Department to host urgent or private ceremonies. However if the client lives in a regional or rural area, or cannot travel to a Departmental office, it can be arranged for a local government council or office of the local Federal MP to preside at the ceremony.
- Client mobility – can the client attend a planned public ceremony happening soon in their area, or do they reasonably need their ceremony to be conducted in private?
- Client accessibility requirements – depending on the circumstances, considerations may need to be made so that the client can fairly access their ceremony, such as ramps, or a written version of the Pledge.

The following circumstances should be reported to managers for potential escalation if the client has already been **approved** for citizenship but not attended a ceremony:

- Onshore Protection visa holders who have indicated they want to travel to an area of conflict or the country which they had claimed protection. These clients should be referred to Protection Visa Integrity section for their information and advice.
- Changes to intention to reside e.g. travelling overseas for more than 12 months or job contract overseas for more than 12 months. These clients may be referred for cancellation.
- Name changes after approval.

3.2.2. Requests to unlink from another client for an urgent ceremony

Clients may request to be unlinked from other family members to facilitate their attendance at a citizenship ceremony. All requests to unlink should be actioned, regardless of the time since approval or whether the unlinking will affect the time to their attendance at ceremony. s. 47E(d)

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s. 47E(d)

They should be informed that they will be invited to their ceremony based on the date of their approval, and will not be re-linked if the other applicants are approved before they are invited to ceremony.

Unlinked clients who then request urgent conferral should be assessed under the conditions outlined in this SOP.

3.2.3. Moving the client to another ceremony

If the client meets the requirements for an urgent ceremony, and can be accommodated into a Departmental, local council or neighbouring council ceremony, organisers must be contacted in the first instance.

If it is a late addition to their nominated local council ceremony, the council must be contacted by phone to advise them of the late addition and alert them to the need to replace their current PVL with an updated version which the Department will provide by email. The council do not need to be advised of the details of the client's urgent circumstances.

If the client could be included in a ceremony for a neighbouring council's municipality, the council must be advised and agree. Do not share information outside of what is relevant to organise the ceremony with the council. They should then be provided with an updated PVL via email.

3.2.4. Record keeping

All requests, including decisions and correspondence with clients, should be recorded in ICSE.

Any correspondence, where the ICSE character limit is reached, and all evidence should also be added to the client's TRIM file.

Correspondence from the Department advising of approval or refusal of an urgent ceremony should also be recorded.

Requests from the offices of elected representatives (local, state or federal) should be recorded and actioned by SECC in the tracking document ADD2019/2235495.

3.3. Requests to Host a Citizenship Ceremony

3.3.1. Arranging a ceremony with a community organisation

A number of community organisations host citizenship ceremonies every year, particularly on Australia Day or Australian Citizenship Day.

Community organisations are encouraged to complete an Expression of Interest (EOI) outlining the details of their proposed ceremony, including the number of conferees and proposed presiding officer. EOIs are assessed on a case by case basis, taking into account the opportunity for positive media, and the number of clients waiting to attend a ceremony in that municipality. There are two potential responses to an EOI to host a ceremony:

- The Department will assist in facilitating a ceremony.
- The organisation are directed to contact their local council to engage with existing local ceremonies, such as sending a representative.

EOIs should be considered by Citizenship Directors.

The Department should maintain contact with each organisation, and read over their prepared speaking notes, run sheets and programs/promotional materials to ensure they are in line with current policy and practice. Departmental staff should also attend community ceremonies to assist with the registration process and ensure the ceremony requirements have been met.

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Organisations who regularly host Australia Day or Australian Citizenship Day ceremonies are very familiar with the requirements of a ceremony and do not require a high level of Departmental oversight.

3.3.2. Arranging a ceremony with an MP or Senator

If a Member of Parliament or Senator is interested in hosting a citizenship ceremony, they should be encouraged in the first instance to liaise with the local government councils in their electorate for opportunities to be involved in their ceremonies.

If any federal or state/territory parliamentarian enquires about presiding over their local government council's ceremony, they should be advised that selecting the presiding officer or any other role for local government council citizenship ceremonies is the responsibility of the council, with the exception of the Minister responsible for citizenship, who has precedence to preside if attending, or the nominated Minister's Representative to read the Ministers message.

All requests from federal or state parliamentarians should be escalated to SECC section as soon as possible after they are received.

On rare occasions (e.g. a large number of clients in the municipality that has resulted in excessive waiting times), it may be appropriate for the electorate office to host a ceremony.

A small number of local government councils have drawn on their local Federal MP/Senator to assist them during times of high demand for ceremony places and the Department has, on occasion, drawn on MPs/Senators to preside at high profile or urgent ceremonies.

It is especially important when the ceremony is being held by an office of a parliamentarian that organisers are aware of their obligations under the Code that the ceremony be apolitical, bipartisan, secular and non-commercial, as well as ensuring that there is no real or perceived conflict of interest.

Departmental staff should in most cases attend ceremonies run by electorate offices to assist with the registration process and ensure that ceremony requirements have been met.

State parliamentarians do not have authorisation to preside, but may apply for one-off authorisation from the Minister. The request may be made in writing directly to the Minister or through the Department. This would usually only occur if they are invited to preside at a ceremony by an organisation and would be facilitated by the SECC team. Three months' notice is required to enable the legal instrument to be drafted and signed by the Minister.

3.3.3. An MP or Senator wants to preside over an urgent or private ceremony

Deciding whether a client meets the requirements for an urgent or private ceremony is the responsibility of the Department.

Requests involving a representation from an MP or Senator at the state/territory or federal level should be escalated to National Office s. 47E(d) for assessment. Even if the case clearly does not appear to meet the threshold for an urgent or private ceremony, SECC ceremonies team should maintain a register of these requests and the response provided.

The request for an urgent or private ceremony should be assessed under the criteria noted above. The preference is always for a client to attend a ceremony with their local council.

Approval for an urgent ceremony in this circumstance requires EL2 clearance from the SECC Section. If the case is likely to attract media attention they may escalate the case to AS for approval.

If approved for an urgent ceremony, the MP should preside over the ceremony only if it is unreasonable to expect the client to travel to a Departmental office.

All actions, decisions and correspondence should be recorded in TRIM and on the client's ICSE record.

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4. Accountability and Responsibilities

Table 2 – Standard Operating Procedure governance roles and responsibilities

Position	Accountability and/or responsibility
State and Territory Citizenship Officers	<ul style="list-style-type: none"> Managing incoming requests Drafting responses to requests Assisting with ceremonies
National Office Citizenship Ceremony Officers (SECC)	<ul style="list-style-type: none"> Managing nationally consistent responses Assisting with ceremonies
Director, Stakeholder Engagement and Citizenship Ceremonies	<ul style="list-style-type: none"> Clearing high-profile responses Liaising with the DLO's Managing relationship with the Minister's Office
Assistant Secretary, Citizenship and Multicultural Affairs Programs Branch	<ul style="list-style-type: none"> Agreement for MPs to preside
All	<ul style="list-style-type: none"> Maintaining thorough and timely recordkeeping with respect to urgent and/or private ceremonies and requests

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	31 May 2019	SECC	First published

FOR OFFICIAL USE ONLY**Attachment A – Definitions**

Term	Acronym (if applicable)	Definition
Australian Citizenship Affirmation	Affirmation	A voluntary and non-binding statement that allows all members of the Australian community to affirm their loyalty to Australia and its people. It is based on the words of the Pledge.
Australian Citizenship Ceremonies Code	The Code	Outlines the guidelines and best practice for the conduct of Australian citizenship ceremonies.
Australian Citizenship Certificates		Official evidence of Australian citizenship.
Expression of Interest	EOI	A community group may express interest in holding a citizenship ceremony. This may be through a formal questionnaire process or informal email.
HECS-HELP study loans	HECS	Study loans available to Australian citizens to access university education.
Integrated Client Service Environment	ICSE	Home Affairs client management system used to produce Pledge Verification Lists and confer citizenship applications.
Ministerial Correspondence	MinCorro	Correspondence sent to Home Affairs Portfolio Ministers that requires a response be drafted by the Department.
Parliamentary Document Management System	PDMS	Home Affairs system for managing communication relating to portfolio Ministers, including briefs, submissions and correspondence.
Pledge of Commitment	Pledge	The Pledge of Commitment must be made by candidates for citizenship by conferral at a citizenship ceremony as the final legal step to becoming an Australian citizen.
Pledge Verification List	PVL	The official register of attendance at a citizenship ceremony. Signed by the presiding officer after the ceremony and returned to the Department to update official records.
Policy and Procedure Control Framework	PPCF	<p>An internal framework outlining governing arrangements for all organisational policies and procedures, providing direction to all IBP workers on the development and management of policy and procedure documents. The control framework is supported by the four pillars of compliance controls:</p> <ul style="list-style-type: none"> • Pillar 1: Policy, procedures and delegations • Pillar 2: Education and awareness • Pillar 3: Assurance activities

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Term	Acronym (if applicable)	Definition
		Pillar 4: Responding to non-compliance to ensure continuous improvement.
Resident Return Visa	RRV	A visa to allow return to Australia when the travel validity of permanent residency expires.
Stakeholder Engagement and Citizenship Ceremonies	SECC	The national office team of the Department of Home Affairs responsible for the strategic management of the citizenship ceremonies program.
Standard Operating Procedure	SOP	Step-by-step instructions for carrying out Procedural Instructions in a localised environment.
TRIM RM8	TRIM	Home Affairs digital record management system. TRIM can hold records classified up to and including PROTECTED.

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FOR OFFICIAL USE ONLY**Attachment B – Assurance and Control Matrix****1.1. Powers and Obligations**

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Australian Citizenship Act 2007	27(4)	Persons who may receive pledge	No	LIN 19/066
Australian Citizenship Act 2007	27(5)	Class of Persons who may receive pledge	No	LIN 19/066

1.2. Controls and Assurance

Related Policy	Citizenship Policy Statement (VM-1545)
Procedures / Supporting Materials	CPI 12 - Assessing significant hardship, disadvantage or detriment for the purposes of Australian citizenship (VM-5289) Australian Citizenship Ceremonies Code
Training/Certification or Accreditation	Citizenship training applicable to all officers undertaking duties under the Australian Citizenship Act 2007.
Other required job role requirements	Nil.
Other support mechanisms (eg who can provide further assistance in relation to any aspects of this instruction)	Departmental staff should raise any questions with their supervisor in the first instance. Inquiries should be sent to SECC s. 47E(d) or the Citizenship Helpdesk.
Escalation arrangements	Escalation, if required, should be to Director, Stakeholder Engagement and Citizenship Ceremonies.
Recordkeeping (eg system based facilities to record decisions)	ICSE.
Control Frameworks (please refer to a specific document outlining QA or QC arrangements)	It is anticipated that the revised quality management framework, a key element of the Visa and Citizenship Operating Model (VCOM2020), will be implemented in the 2019-20 program year. This will inform enhanced quality approaches across Divisions and Branches. Citizenship has been identified as one of the first caseloads to be incorporated into the revised quality management framework.

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Job Vocational Framework Role	Citizenship processing
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FOR OFFICIAL USE ONLY**Attachment C – Consultation****3.4. Internal Consultation**

Date Provided	Internal Work Area	Comments
08/05/2019	Citizenship Program Management	Feedback saved to TRIM ADD2019/2356195
02/05/2019	Citizenship Operations	Clarification on unlinking of clients section
-	Legal	Not required
23/04/2019	NSW Citizenship Team	Please incorporate linking/unlinking requests
01/05/2019	QLD/NT Citizenship Team	Clarification requested on community group EOI clearance level
02/05/2019	VIC Citizenship Team	Changes requested to assessment criteria
17/04/2019	TAS Citizenship Team	No comments
-	SA Citizenship Team	No feedback provided
16/04/2019	WA Citizenship Team	No comments

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Pledge of Commitment and Citizenship Ceremonies

Procedural Instruction

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1. Purpose

The purpose of this Instruction is to identify the legal requirements and related policy and procedures that apply to arrangements for Australian citizenship ceremonies and the making of the Pledge of Commitment.

Decision-makers are required to understand and apply the relevant law as set out in the Act. Many of the requirements in the Act are expressed in objective terms and do not allow any discretion for decision-makers. To the extent that the Act so allow for discretion, decision-makers should consider the Department's approved policy and procedures where relevant and appropriate in decision-making. This ensures that decision-making is consistent to the extent that it is appropriate and arbitrary outcomes are avoided.

However, policy and procedures do not have the force of law. When exercising powers or making decisions under legislation, citizenship officers should give policy documents due weight, but should not apply policy inflexibly and should consider the merits of each individual case. In order to make a fair, reasonable and lawful decision, it may be necessary to depart from the approved policy and procedures, depending on the facts of the particular case. A note of the reasons for doing so must be added to the client record in ICSE.

2. Scope

This Instruction covers:

- The Pledge of Commitment, including making and receiving the Pledge
- Australian citizenship ceremonies, including ceremony hosts, legal requirements, the authorisation to preside and the Australian Citizenship Ceremonies Code.
- Commencement of Australian citizenship
- The Australian Citizenship Affirmation
- Disclosure of personal information.

This Instruction does not cover:

- cancellation of approval for failing to make a Pledge of Commitment after 12 months
- the making of a determination to delay a person making a Pledge of Commitment.

3. Glossary

Table 1 – Glossary

Term	Acronym (if applicable)	Definition
<i>Australian Citizenship Act 2007</i>	The Act	The Act sets out how people become a citizen, the circumstances by which people may cease to be a citizen, and other matters related to citizenship.
<i>Australian Citizenship Regulation 2016</i>	The Regulation	The Regulation is made under the <i>Australian Citizenship Act 2007</i> .
The Pledge of Commitment	The Pledge	The Pledge of Commitment must be made by most candidates for citizenship by conferral as the final legal step to becoming an Australian citizen.
Presiding officer		A person authorised by the Minister to receive the Pledge
Australian Citizenship Ceremonies Code	The Code	Outlines the guidelines and best practice for the conduct of Australian citizenship ceremonies.

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Term	Acronym (if applicable)	Definition
Pledge Verification List	PVL	The official register of attendance at a citizenship ceremony. Signed by the presiding officer after the ceremony and returned to the Department to update official records.
Australian Citizenship Affirmation	The Affirmation	A voluntary and non-binding statement that allows all members of the Australian community to affirm their loyalty to Australia and its people. It is based on the words of the Pledge.

4. Procedural Instruction

4.1. Overview

The *Australian Citizenship Act 2007* (the Act) requires most applicants for Australian citizenship by conferral, who are aged 16 or over at time of making their application, to make the Pledge of Commitment (the Pledge) to become an Australian citizen.

For those persons required to make a Pledge of Commitment, it is the final legal step in the process of becoming an Australian citizen.

The requirements relating to the making of the Pledge are set out in the Act and the *Australian Citizenship Regulation 2016* (the Regulation).

A Pledge of Commitment must be made before the Minister or a person authorised by the Minister and must be made in public if reasonably practicable.

The Pledge is generally made at a citizenship ceremony usually arranged by a local government council or the Department of Home Affairs (the Department).

4.2. Pledge of Commitment must be made – s26 of the Act

A person who was aged 16 or over at the time of application to become an Australian citizen by conferral and whose application has been approved, must make the Pledge, unless the person:

- had a permanent or enduring physical or mental incapacity which means that they are not capable of making the Pledge in accordance with paragraph 26(1)(b) of the Act at the time the person made their application; or
- is born to a former Australian citizen [ss21(6)], or is born in Papua [ss21(7)] or is stateless, according to the definition in ss21(8).

The Pledge should be made within 12 months of the person being notified of the approval of their application. The Minister may cancel the approval to become an Australian citizen if the person fails to make a Pledge within 12 months of being notified and the reason for the failure is not one prescribed in section 9 of the Regulation.

A person does not become an Australian citizen if:

- the person makes the Pledge before their application for Australian citizenship is approved, or
- the person attends a citizenship ceremony but does not make the Pledge before the presiding officer, or
- there is a written Determination made by the decision maker that delays the person making the Pledge before a particular date.

A person cannot arrange for another person to make the Pledge on their behalf.

4.3. How the Pledge of Commitment is to be made – s27 of the Act

The Pledge must be made in accordance with either of the two forms set out in Schedule 1 of the Act. No other form of the Pledge is legally acceptable.

Arrangements for making of the Pledge are set out in section 10 of the Regulation and in the Act.

- The Pledge must be made in public if it is reasonably practicable to do so.
- The Pledge must be made before a presiding officer, who is authorised by the Minister.
- The presiding officer must read aloud the Preamble for citizenship ceremony, specified in Schedule 1 of the Regulation.
- The presiding officer is responsible for administering the Pledge. This would generally involve reading both forms of the Pledge, line by line, for the conferees to repeat back.
- The presiding officer should also sign the Pledge Verification List (PVL) to verify that the persons named have made the Pledge.

4.4. Commencement of Australian Citizenship – s28 of the Act

The table below summarises who must make a Pledge and when a person becomes an Australian citizen.

Table 2 – Summary of when citizenship commences

Part of the Act the person was approved under	Time of commencement of citizenship
General eligibility - ss21(2)	On the day they make the Pledge
Permanent or enduring physical or mental incapacity - s21(3)	Date application is approved
Person aged over 60 or a person who has a hearing, speech or sight impairment - ss21(4)	On the day they make the Pledge
Aged under 18 - ss21(5)	
a. 16 and 17 year olds at time of application	a. On the day they make the Pledge
b. Under 16 and included in responsible parent's application	b. At time responsible parent makes the Pledge
c. Under 16 years old and applying on own application	c. Date application is approved
Born to a former Australian citizen - ss21(6)	Date application is approved
Person born in Papua prior to 16 September 1975 ss21(7)	Date application is approved
Stateless person - ss21(8)	Date application is approved
Any application where applicant was 16 or over at time of application who is required to make a Pledge but becomes incapacitated before making a Pledge	Must reapply under ss21(3) and will become a citizen when this application is approved.

Children under the age of 16 years

Children under the age of 16 years at the time of application are not required to make the Pledge.

- A child who is included in the application of one or more responsible parents will become an Australian citizen on the first day on which a responsible parent makes the Pledge (ss28(3) of the Act).
- If the child under the age of 16 makes an application at the same time, and on the same form, as a responsible parent, and the responsible parent is refused, the decision maker should consider the following:

- The child must have their application considered in their own right under section 21(5) of the Act and the accompanying policy. For further information on citizenship for children under 16, refer to [Citizenship Instruction 4 – Citizenship by Conferral – Under 18 \(VM-5281\)](#). This would be the case in the following circumstances:
 - If the other responsible parent is not applying, or is already an Australian citizen;
 - If the second parent has already applied for Australian citizenship, and a decision has not been made or the pledge has not been taken.
- If the other responsible parent (the second parent) has not yet applied for Australian citizenship but is intending to, the other parent should be asked if they wish to include the child in their application.

Impairments to making the Pledge

- Candidates who have an impairment that prevents them from saying the pledge aloud, such as a stroke, may have the Pledge read to them. The candidate may then acknowledge by some pre-arranged signal that they understand and agree to the Pledge.
- The Department should make arrangements that encourage and facilitate candidates with disabilities affecting their ability to make the Pledge to be included in public ceremonies and make or acknowledge the Pledge.
- Funding for official AUSLAN interpreters is the responsibility of the ceremony organisers, although they may apply to the Department for assistance. With approval from the Department, a friend or family member may be able to provide AUSLAN interpretation.

People who become incapacitated after approval

From time to time applicants who would usually be required to make a Pledge become incapacitated after the application for Australian citizenship is approved.

- If a person, after approval but before making the Pledge, becomes incapacitated such that they are entirely unable to make or acknowledge the Pledge, the person will not be able to acquire Australian citizenship despite having been approved. It is open to the person to lodge a new application and seek assessment under [ss21\(3\) – Permanent or enduring physical or mental incapacity](#).
- For example, this may include where the person is involved in an accident or suffers a stroke such that it are unable to recite the Pledge.

4.5. Australian Citizenship Ceremonies

Citizenship ceremonies are traditionally public ceremonial occasions which provide an important opportunity to formally welcome new citizens as full members of the Australian community. Citizenship ceremonies should be non-commercial, apolitical, bipartisan and secular.

Ceremonies may be conducted by:

- Local government (ie: councils)
- The Department
- Community groups
- Australian Diplomatic Missions located overseas.

The Australian Citizenship Ceremonies Code

The Australian Citizenship Ceremonies Code (the Code) sets out policy approved by the Minister. Presiding officers, ceremony organisers and administrators are expected to follow the Australian Citizenship Ceremonies Code at all times as it sets out:

- the legal, administrative and protocol requirements for a citizenship ceremony
- the roles and responsibilities of those people conducting ceremonies.

The Code is publicly available from the Department's [website](#).

Local Government Councils

The vast majority of Australian citizenship ceremonies are conducted by local government councils. The arrangement by which local government conducts Australian citizenship ceremonies on behalf of the Department is based on good will and mutual agreement.

- Although there is no direct funding provided to local governments for costs associated with citizenship, the Australian Government (through the Department of Infrastructure and Regional Development) provides untied funding to local governments under the Financial Assistance Grant program.

The Australian Government Minister responsible for citizenship matters may be invited to local government citizenship ceremonies.

- If the Minister should choose to attend, the Minister will have precedence to assume the role of the presiding officer.
- If the Minister chooses not to attend he/she may nominate a representative to read the Minister's Message. If no representative is nominated, the Message should be read by a Federal elected representative if present, or by the presiding officer.
- The Minister's office or the Department will advise the ceremony hosts if there is to be a representative.

It is desirable that State and Territory parliamentarians and Commonwealth Members of Parliament have the opportunity to welcome new citizens as formal members of the Australian community at the citizenship ceremony and therefore local government councils should invite as official guests:

- the local federal member/s of parliament
- a senator from a different political party to that of the local federal member
- the local member/s of the state or territory parliament.

The presence of these official guests representing the other two levels of government serves to introduce new citizens to Australia's three-tiered democratic system of government. All elected government representatives should have an opportunity to provide a welcoming speech to candidates over time but not at every ceremony they attend.

Candidates for election are not to be included in official parties at citizenship ceremonies and should not be invited to speak. They may attend as guests in a private capacity.

Members of the official party may also include community leaders, such as Aboriginal and Torres Strait Islander elders.

The Department

The Minister (this currently includes the Minister for Home Affairs, the Minister for Immigration, Citizenship and Multicultural Affairs, and the Assistant Minister for Home Affairs) and the three levels of government are not required to be invited to Departmental ceremonies unless they are special event ceremonies.

Regular ceremonies should be conducted to ensure service standards are met, particularly where local government councils are unable to keep up with demand.

Special event Departmental ceremonies may be conducted to celebrate significant national days such as Australian Citizenship Day and Australia Day.

Urgent and/or Private ceremonies may be considered in exceptional and very limited circumstances.

All requests for urgent or private ceremonies must be assessed on a case by case basis. Requests should be in writing and include supporting documentary evidence. Consideration should be given to:

- section 10 of the Regulation
- genuinely compassionate or compelling circumstances
- the length of time the person has waited for a citizenship ceremony
- circumstances beyond the person's control
- whether the person's needs could be accommodated through attendance at a routine council ceremony

- significant disadvantage to the person should they not be able to attend an urgent ceremony. Refer to [Citizenship Instruction 12 – Assessing significant hardship or disadvantage \(VM-5289\)](#).

Applicants seeking urgent ceremonies may be questioned about their future intentions in regards to whether they are likely to reside in Australia, particularly in those cases where the applicant is seeking an urgent ceremony to facilitate an Australian passport for overseas travel.

- If the applicant holds a current foreign passport and a valid Australian visa they should be encouraged to use those documents for travel purposes.
- If the applicant hold a current foreign passport, but their travel facility associated with their visa has expired, they may be eligible for a resident return visa (RRV). Unless compelling or compassionate circumstances exist, applicants should be encouraged to apply for a RRV.

Before agreeing to an urgent ceremony the assessing officer must consider any risks associated with the application and refer to other program areas to seek advice where relevant. .

A private ceremony may be arranged where a candidate is unable to attend a public ceremony. Consideration should be given to:

- Genuinely restricting circumstances such as a physical incapacity that may restrict their movement or heighten the risk of injury
- significant disadvantage to the person should they not be given a private ceremony. Refer to [Instruction 12 – Assessing significant hardship or disadvantage \(VM-5289\)](#).

The Department will assess applications for urgent or private ceremonies on the merits of each case.

Community Organisations

Community organisations such as Rotary, Lions and sporting clubs may host citizenship ceremonies, particularly to recognise significant national days such as Australia Day or Australian Citizenship Day.

- They may approach the Department through an expression of interest (EOI). The State or Territory office responsible for the region are expected to ensure all legal, administrative and protocol requirements are met.

Community organisations should approach a local representative to perform the role of presiding officer.

As all Federal Members of Parliament and Senators are authorised under the Citizenship (Authorisation) Revocation and Authorisation Instrument 2017, IMMI17/098 (Instrument) to receive a Pledge and may therefore preside at Australian citizenship ceremonies, they may be approached to assist on these occasions.

State parliamentarians are not authorised to receive a Pledge, therefore, if it is desired for a State parliamentarian to preside at a citizenship ceremony a request for authorisation should be made in writing to the Minister on each occasion this is required.

The Minister responsible for citizenship matters should be invited to all citizenship ceremonies hosted by community organisations.

If the Minister should choose to attend, the Minister will have precedence to assume the role of the presiding officer.

In keeping with welcoming new citizens to their local community and introducing them to Australia's three-tiered democratic system of government, official guests should include;

- the local federal Member/s of Parliament
- a Senator from a different political party to that of the local federal member
- the local member/s of the state or territory parliament
- representatives from local government.

Australian Diplomatic Missions located overseas

Citizenship ceremonies may be conducted overseas in limited circumstances.

If an applicant makes an application while residing overseas and remains overseas at time of approval they may be invited to make the Pledge at an Australian Embassy, High Commission or Consulate.

- Applicants choosing to make a Pledge at an Australian Embassy, High Commission or Consulate may be limited in the number of guests they can invite to their ceremony and may need to wait for a period of time for ceremony to be arranged as ceremonies may be held infrequently in some Posts.

If an applicant makes an application and it's approved while residing in Australia, they are expected, as far as possible, to attend a citizenship ceremony in Australia.

- Applicants who applied while residing in Australia should not be offered overseas ceremonies until such time as the Minister or their Delegate that approved the application has re-assessed whether the person continues to meet the legal requirements for Australian citizenship, including whether they are likely to reside in Australia or maintain a close and continuing association with Australia.
- In some cases it may be appropriate to consider cancelling the approval of the application where the application was assessed under ss21(2) or (4) of the Act.

4.6. Legal requirements of a citizenship ceremony

Legal requirements

There are three legal requirements which must be met when conducting an Australian citizenship ceremony.

- Most people aged 16 years and over at the time of application for Australian citizenship by conferral must make the Pledge.
- The Pledge must be made before a person authorised by the Minister to receive the Pledge (the presiding officer).
- The presiding officer must read aloud the address specified in Schedule 1 of the Regulation (the Preamble).

Authorisation to Preside - ss27(3) (4) and (5)

Under the Act, the Pledge must be made before a person authorised by the Minister to receive the Pledge. This authorised person is known, for the purposes of a citizenship ceremony, as the presiding officer.

Authorisation to preside at Australian citizenship ceremonies is only given to Australian citizens.

There are two types of authorisations:

- A standing authorisation; and
- Ceremony specific one-off authorisations.

A standing authorisation is an ongoing authorisation which is attached to a position rather than to a person.

It is provided under the Instrument.

The positions specified include:

- the Governor-General (see section 1 of the Instrument)
- all Federal MPs and Senators (see sections 2 and 3 of the Instrument)
- certain positions within Department of Home Affairs Headquarters (see section 5 of the Instrument)
- APS 4 officers and above in State and Territory offices of the Department undertaking citizenship duties
- certain positions at overseas diplomatic posts (see sections 6 and 7 of the Instrument)
- positions within the states and territories including:
 - the state governors and the NT Administrator
 - Mayor/deputy Mayor (or Administrator if there is no Mayor or deputy Mayor) and General Manager of local government councils

- Members of the ACT Legislative Assembly
- other positions deemed necessary due to remoteness to local government councils.

See section 8 of the Instrument for a full list.

Presiding officers who have been authorised under the Instrument have no power to appoint a proxy. However, a person temporarily performing one of the roles authorised under the Instrument is able to act as a presiding officer during the period that they occupy the position.

Ceremony specific authorisations are one-off authorisations and are linked to a particular ceremony on a particular day. For example, a state premier may seek authorisation to preside at a ceremony held to celebrate a significant day within that state.

The presiding officer:

- reads the Minister's message unless a representative is provided by the Minister to do so
- reads aloud the Preamble (Schedule 1 of the Regulation)
- administers the Pledge; that is, reads it aloud, line by line, to the conferees who repeat it back line by line
- signs the PVL to confirm that identity of each conferee has been verified and the Pledge of Commitment received from each person.

To avoid the appearance of conflict of interest, presiding officers should not confer Australian citizenship on family members, close friends or acquaintances, especially at urgent or private ceremonies.

Identity verification at citizenship ceremonies

Under the Act, the Minister must be satisfied of a person's identity for them to acquire citizenship by application.

As making the Pledge is a legal requirement, ceremony organisers should be satisfied of the identity of citizenship ceremony attendees making the Pledge.

Conferees over the age of 16 at the time of application should bring official photographic identification to the ceremony (e.g. passport, drivers license). For conferees who do not have any form of photo ID, at least three documents bearing their name, address and signature are required.

Conferees who cannot be identified cannot proceed to ceremony and should be reported to the Department.

Failure to make the Pledge of Commitment

A conferee who fails to make the Pledge in front of the presiding officer at a public ceremony should be informed that they are not an Australian citizen until they make the Pledge.

They should be given an opportunity to make the Pledge once more in front of the presiding officer.

If they refuse, they should not be given their Evidence of Australian Citizenship (citizenship certificate) and be informed that they are not an Australian citizen. Their name should be struck from the PVL before it is signed by the presiding officer.

The conferee should be invited to a future ceremony. If they fail to make the Pledge within 12 months of being notified of the decision to approve the application, the approval of the application may be cancelled under ss25(3) of the Act.

Non-Attendance at a ceremony by approved candidates

If a person who is required to make the Pledge does not attend a citizenship ceremony that they have been invited to, their name must be crossed out on the PVL before it is returned to the Department.

Where an applicant failed to attend a scheduled ceremony they should be provided with another opportunity to attend a ceremony. If they fail to attend a citizenship ceremony within 12 months of being notified of the decision to approve the application, refer to [Citizenship Instruction 10 - Cancellation of Approval and Delay making the Pledge \(VM-5287\)](#)

All communications with/to the client must be recorded by the Department.

Cancellation of approval

If a person who is required to make the Pledge of Commitment does not do so within 12 months of being notified of the decision to approve their application, the approval of their citizenship application may be cancelled under section 25(3) of the Act.

The approval may be allowed to continue if the reason for failing to make the Pledge is one of the prescribed reasons outlined in [Section 9 of the Regulation](#).

Cancellation of the approval of the application may occur at any point before the person has become an Australian citizen under section 28 of the Act.

Under section 25 of the Act, the approval of a person's citizenship application may be cancelled if the person no longer meets the eligibility requirements for citizenship (for example, likely to reside or character) or the candidate has not made the Pledge within the 12 months of being notified of their approval.

For further information on cancellation of approval refer to [Citizenship Instruction 10 - Cancellation of Approval and Delay making the Pledge \(VM-5286\)](#).

Breaches of protocol or legal requirements for conducting citizenship ceremonies

Where a presiding officer breaches the legal requirements for conducting citizenship ceremonies or behaves in an inappropriate manner the Minister may take action to revoke their authorisation to receive the Pledge.

This may also apply to members of the Official Party, guest speakers or representatives from the organising group who have authorisation to preside at Australian citizenship ceremonies.

Behaviour considered to be inappropriate may include, but is not limited to, where a presiding officer, official speaker or organisation:

- uses the ceremony for political purposes, particularly through comments made during the ceremony;
- refuses to read the Minister's message;
- makes discriminatory or offensive remarks.

Suspected breaches of the Australian Citizenship Ceremonies Code should be reported to the Director of Stakeholder Engagement and Citizenship Ceremonies Section as soon as possible.

Citizenship Certificates – Evidence of Australian Citizenship

An application to become an Australian citizen is also an application for evidence of Australian citizenship given under [section 37 of the Act](#).

Australian citizenship certificates are accountable documents and must be stored in a secure location such as a safe. Access to them should be restricted to a minimal number of people.

With the exception of the presiding officer's signature, organisations conducting citizenship ceremonies have no legal authority to amend, add or delete any information from citizenship certificates.

Certificates are only valid for presentation on the date that is printed on them and only if the conferee makes the Pledge before the presiding officer.

Any unrepresented certificates must be returned to the Department to be destroyed.

While the Department, as a matter of practice, provides citizenship certificates (which is the evidence of their Australian citizenship) to applicants at their citizenship ceremony this may not always be possible. It is not a legal requirement that certificates be presented at the ceremony.

- This does not mean the person does not become an Australian citizen on that day. Clients should be reassured that they are an Australian citizen and that their certificate will be provided as soon as possible.

Correcting errors on certificates

Where an evidence of Australian citizenship is given to a person at a ceremony and it is found that there is an error on the certificate, a replacement certificate should be provided where the error is drawn to the attention of the Department within 6 weeks of being issued.

- If the error is not identified until after this time the applicant must apply for evidence including the payment of the application fee. The Department will assess whether the error is due to an administrative error and if so will refund the application fee. In these cases the client should be provided with the link to [Form 1424 – request for refund](#) and advised to lodge this with the application.

For further information about evidence of Australian citizenship refer to [Citizenship Instruction 30 – Evidence of Australian citizenship \(VM-5306\)](#).

Use of ceremonial documents when certificates are not available

From time to time ceremonial certificates may be provided to applicants at a citizenship ceremony. An example of when this might occur is in the time after a federal election when the Minister responsible for citizenship is still to be determined. These ceremonial certificates have no legal standing and cannot be used as evidence of Australian citizenship for the purposes of applying for an Australian passport or any other service that requires the person to show evidence of Australian citizenship.

Pledge Verification Lists

PVLs form an important part in the administration of Australian citizenship ceremonies.

They are used to confirm that the candidate has attended the ceremony they have been invited to and made the Pledge.

The PVL should be compared to the unused citizenship certificates returned by the host organisation and any discrepancies followed up. All non-attending conferees should have an unused certificate returned to the Department to be destroyed.

Where the PVL indicates a person attended a ceremony, however they failed to make the Pledge, then that person is not a citizen as they have not fulfilled the requirements to become one.

The PVL is returned to the Department after a citizenship ceremony for reconciliation and so that the records of the candidates may be updated to reflect their new status of Australian citizen.

The PVL must be retained for 100 years as specified in Records Authority 2012/00542174 from the National Archives of Australia.

4.7. The Australian Citizenship Affirmation

The Affirmation provides an opportunity for everyone, particularly those who are already Australian, to publicly declare their pride and commitment to Australia and its people. Non-citizens are also welcome to join in - at the second line of the text of the Affirmation.

The Affirmation has no legal effect and participation is voluntary. The Affirmation is based on the Pledge made by new citizens at citizenship ceremonies.

The Affirmation should be led by an Australian citizen, however, authorisation is not required.

The Affirmation can increase awareness of Australian citizenship, promote community involvement and participation and helps people feel they belong to the broader Australian community.

4.8. Disclosure of personal information

The Form 1442i Privacy Notice states that personal information may be disclosed to, among others:

- local government councils and other organisations for the purposes of administering citizenship ceremonies;
- the Australian Electoral Commission for the purposes of administering the Commonwealth Electoral Act 1918;
- Local Federal, State/Territory Members of Parliament (MPs) and local government councillors for the purposes of formally welcoming new citizens into the Australian community.
 - New citizens are informed through the application form for conferral of Australian citizenship that their information may be disclosed to Members of Parliament for this purpose.

- Local Members of Parliament are the elected representatives of the new citizens. A welcome from a local Member of Parliament facilitates future contact between the new citizens and their representatives.
- Accordingly, local councils are expected to forward, on request, the names and addresses of new citizens to their local Federal and state/territory MPs. This information should be accompanied by advice that the material is to be used only for the purposes of welcoming new citizens as formal members of the Australian community and should not be forwarded to other persons or organisations, including Members of Parliament who are not local representatives.
- Only names and addresses are forwarded to Members of Parliament. Copies of PVLs containing identity and personal information should not be sent to Members of Parliament.

The purpose of collection of personal information should govern its use. The names and addresses of new citizens are provided to local government councils for the purpose of arranging citizenship ceremonies. Generally, disclosure is permitted if it is either for the primary purpose of collection or for a related secondary purpose that the individual might reasonably expect would lead to disclosure.

- Disclosing the name and address of new citizens to local Members of Parliament for the purpose of those Members of Parliament welcoming the new citizens as constituents would be a related secondary purpose.
- Any known breach of privacy must be reported. This is done by completing the [Breach of Privacy template](#).
- Any significant breach needs to be reported to the Citizenship Helpdesk.

5. Accountability and Responsibility

Table 3 – Citizenship Procedural Instruction - Roles and responsibilities

Position	Accountability and/or responsibility
Officers delegated as Australian citizenship decision makers including those in the overseas network	Responsible for implementing and applying this Instruction to their decision making as part of making lawful, fair and reasonable decisions - For further information on the Instrument of Delegation refer to Migration (Minister) (Australian Citizenship Legislation) Delegation 2017 (DEL 17/085)
Citizenship supervisors and managers	Responsible for ensuring citizenship decision makers are applying the policy set out in this Instruction and that decision makers are exercising their powers appropriately
Citizenship Helpdesk	Responsible for providing accurate and appropriate advice in accordance with this Instruction and related legislation
Officers providing advice on AAT matters	Responsible for providing accurate and appropriate advice in accordance with this Instruction, as it relates to matters before the AAT
Officers providing training to stakeholders	Responsible for ensuring that training content is accurate and is in accordance with this Instruction and related legislation
Director – Citizenship Operations Section	Accountable for ensuring that the information contained in this Instruction is up to date, accurate and meets stakeholder requirements.
Assistant Secretary, Citizenship and Multicultural Affairs Programs Branch	Accountable for the quality and delivery of the citizenship program.
Assistant Secretary, Integration, Citizenship and Social Cohesion Branch	Accountable for ensuring that the policy contained in this Instruction is consistent with the policy framework

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6. Version Control

Version number	Date of issue	Author(s)	Brief description of change
V1.0		Citizenship Operations Section	This is a new Instruction which will replace the Citizenship Policy document and the Australian Citizenship Instructions in LEGEND. This instruction provides additional guidance to decision makers than previously provided.

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Attachment A – Assurance and Control Matrix

1.1. Powers and Obligations

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
Australian Citizenship Act 2007	27(4)	Persons who may receive pledge	No	LIN19/066
Australian Citizenship Act 2007	27(5)	Class of Persons who may receive pledge	No	LIN19/066

1.2. Controls and Assurance

Related Policy	Citizenship Policy Statement (VM-1545)
Procedures / Supporting Materials	<p>Related instructions:</p> <ul style="list-style-type: none"> Citizenship Instruction 10 – Cancellation of Approval and Delay making the pledge (VM-5287) Citizenship Instruction 11 – Assessing likely to reside or close and continuing association (VM-5288) Citizenship Instruction 12 - Assessing significant hardship and disadvantage (VM-5289) Australian Citizenship Ceremonies Code
Training/Certification or Accreditation	Citizenship training applicable to all officers undertaking duties under the <i>Australian Citizenship Act 2007</i> .
Other required job role requirements	Nil.
Other support mechanisms (eg who can provide further assistance in relation to any aspects of this instruction)	Departmental staff should raise any questions with their supervisor in the first instance. Inquiries should be sent to the Citizenship Helpdesk.
Escalation arrangements	Escalation, if required, should be to Director, Citizenship Operations Section.
Recordkeeping (eg system based facilities to record decisions)	ICSE.
Control Frameworks (please refer to a specific document outlining QA or QC arrangements)	It is anticipated that the revised quality management framework, a key element of the Visa and Citizenship Operating Model (VCOM2020), will be implemented in the 2019-20 program year. This will inform enhanced quality approaches across Divisions and Branches. Citizenship has been identified as one of the first caseloads to be incorporated into the revised quality management framework.
Job Vocational Framework Role	Citizenship processing

Assessing significant hardship, disadvantage or detriment for the purposes of Australian citizenship

Procedural Instruction

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1. Purpose

The purpose of this instruction is to identify the legal requirements, and related policy and procedures that apply when making an assessment whether a person would suffer significant hardship, disadvantage or detriment in relation to a decision under the *Australian Citizenship Act 2007* (the Act).

Decision-makers are required to understand and apply the relevant law as set out in the Act. Many of the requirements in the Act are expressed in objective terms and do not allow any discretion for decision-makers. To the extent that the Act so allows for discretion, decision-makers should give due consideration to the Department of Home Affairs' (the Department) approved policy and procedures where relevant and appropriate in decision-making. Consideration of policy ensures that decision-making is consistent to the extent that it is appropriate and arbitrary outcomes are avoided.

However, policy and procedures do not have the force of law. When exercising powers or making decisions under legislation, Immigration and Border Protection workers should give policy documents due weight, but should not apply policy inflexibly and should consider the merits of each individual case. In order to make a fair, reasonable and lawful decision, it may be appropriate to depart from the approved policy and procedures, depending on the facts of the particular case. A note of the reasons for doing so must be added to the client record in ICSE.

2. Scope

This Instruction provides guidance on:

- when it is necessary to assess whether a person would suffer 'significant hardship or disadvantage' or 'significant hardship or detriment';
- the meaning of the terms 'significant hardship or disadvantage' and 'significant hardship or detriment';
- evidence that may support a claim of significant hardship or disadvantage or a claim of significant hardship or detriment.

3. Procedural Instruction

3.1. When an assessment of significant hardship or disadvantage or significant hardship or detriment is required

Assessing whether a person would suffer significant hardship, disadvantage or detriment is required by a number of provisions in the Act and citizenship instructions. These are set out in the following table.

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Provision or instruction	Circumstances
<p>Residence requirement</p> <p>Subsection 22(6) – Ministerial discretion – significant hardship or disadvantage</p>	<p>For the purposes of meeting the 12 month permanent residence requirement set out in paragraph 22(1)(c) of the Act, the Minister may treat a period of temporary residence in Australia as a period of permanent residence if the Minister is satisfied that the person would suffer significant hardship or <u>disadvantage</u> if that period was not treated as one during which the person was present in Australia as a permanent resident. .</p> <p>Where a decision-maker is considering this issue in the context of child under the age of 18, the decision-maker should also take appropriate account of the guidelines in Citizenship Instruction 4 – Citizenship by Conferral – aged under 18. The decision maker should also consider the best interests of the child – see Citizenship Instruction 13 – Best interests of the child assessments.</p>
<p>Subsections 29(2) & (3) - Resumption</p>	<p>A person may be eligible to resume Australian citizenship if the person renounced their Australian citizenship to avoid suffering significant hardship or <u>detriment</u>.</p> <p>For information on resumption of Australian citizenship, see Citizenship Instruction 27 – Resumption of Australian Citizenship.</p> <p>For information on renunciation of Australian citizenship, see Citizenship Instruction 28 – Renunciation of Australian Citizenship.</p>
<p>Citizenship instruction 4 – Citizenship by Conferral – aged under 18</p>	<p>The instruction sets out that if an applicant aged under 18 years does not meet the approved guidelines, consideration may be given to discretionary refusal under subsection 24(2) of the Act.</p> <p>When considering discretionary refusal, consideration should be given to the best interests of the child. This may include whether the child would suffer significant hardship or disadvantage if a policy guideline is applied. See Citizenship Instruction 13 – Best interests of the child assessments.</p>

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3.2. Meaning of 'significant hardship or disadvantage' and 'significant hardship or detriment'

The words 'significant', 'hardship', 'disadvantage' and 'detriment' are not defined in the Act.

The Macquarie Dictionary Online provides the following definitions:

<u>significant</u>	important; of consequence.
<u>hardship</u>	a condition that bears hard upon one; severe toil, trial, oppression, or need; an instance of this; something hard to bear.
<u>disadvantage</u>	absence or deprivation of advantage; any unfavourable circumstance or condition. injury to interest, reputation, credit, profit etc.; loss; to subject to disadvantage.
<u>detriment</u>	loss, damage or injury; a cause of loss or damage.

Assessing significant hardship or disadvantage/detriment

The hardship or disadvantage/detriment must be significant and of consequence to the person.

Depending on the provision being considered, applicants need to demonstrate they:

- would suffer the significant hardship or disadvantage if the period of temporary residence in Australia is not treated as a period during which the person was present in Australia as a permanent resident; (for example, it may then be very difficult or impossible - and put the person to considerable hardship - for the person to take the steps to meet the permanent residency requirement ordinarily required for obtaining Australian citizenship); or
- renounce their Australian citizenship to avoid suffering significant hardship or detriment .

Common scenarios

Following are some commonly encountered scenarios in the conferral caseload. Decision-makers should exercise their discretionary power to decide whether or not a person would suffer significant hardship or disadvantage if a period of temporary residence in Australia was not treated as a period of permanent residency. The applicant must provide evidence to support their claims that they are suffering substantial hardship or disadvantage and that the lack of Australian citizenship is the sole or major cause of the hardship or disadvantage.

- Claimed inability to obtain work in Australia on the grounds that the employment is restricted to Australian citizens, and that comparable or alternative employment is not reasonably available.

Many employment opportunities with the Australian Public Service (APS) and other Commonwealth employers require a person to be an Australian citizen, or to become an Australian citizen before they can be appointed permanently. Comparable employment opportunities outside the Commonwealth may be limited, depending on the skills of the applicant. However, the potential hardship or disadvantage:

- may be considered a significant hardship or disadvantage/detriment, where a person is unable to obtain employment and therefore unable to adequately financially support themselves or their family due to their citizenship status;
- may not be significant where comparable work can be obtained as a contractor or the applicant could be engaged as an employee on probation until such time as they are eligible for Australian citizenship;
- may have greater significance where all types of position (e.g. temporary, permanent or contractor) require a security clearance for which Australian citizenship is a requirement.

Where hardship or disadvantage is being claimed in relation to his or her employment, consideration should be given to what evidence the applicant can produce as to potential employment, for example evidence of a conditional employment offer based on their being a citizen.

- Difficulty of international travel because the person cannot obtain a passport from their country of nationality/citizenship, or is unable to use a passport issued by that country for safety or similar reasons.

In this scenario, it may be relevant for the person to be able to demonstrate that they are unable to avail themselves of alternative travel documents. For example, the Australian Passports Office issues a number of travel documents that do not require a person to be an Australian citizen. These include:

- convention travel documents for those people who are in Australia as refugees or humanitarian entrants;
- a Certificate of Identity (COI), which may, in limited circumstances, be issued to a non-Australian citizen who is about to leave Australia and is stateless, or is unable to obtain a travel document from their country of nationality.

- Difficulty in obtaining visas when required to travel overseas in the course of a person's employment in Australia.

Some countries have more stringent requirements for the grant of visas to holders of passports from certain countries. In this scenario, it may be relevant for the applicant to demonstrate that they would face a significant obstacle when trying to obtain visas, and not just inconvenience (e.g. through greater documentary requirements or visa processing times).

- The person claims they would be safer travelling as an Australian citizen.

While Australia can provide consular assistance to its citizens, the rule of law in the other country is what protects travellers in that country. In other words, in some situations even possession of Australian citizenship will not necessarily result in greater protection for an individual.

- The person claims they cannot access educational opportunities until they become an Australian citizen.

For example, the person claims they will not be able to afford to pay the higher fees imposed on some non-citizens and will suffer significant hardship or disadvantage as a consequence, or they claim that they will suffer significant hardship or disadvantage if they pay the fees.

Australian citizenship is not a requirement to study in Australia at the primary, secondary or tertiary levels in Australia. Permanent residents are eligible for Commonwealth supported places in Australian universities, where available. Although eligibility for financial assistance such as the Australian Government loan scheme HECS-HELP, is limited to Australian citizens, permanent humanitarian visa holders and some New Zealand citizens, aspiring students who do not qualify for such assistance may be able to defer tertiary enrolment until after they have acquired citizenship.

- The person is ineligible to be selected to represent Australia in an international event unless they are an Australian citizen.

For example, the person claims that an international event requires them to be an Australian citizen to compete for Australia and they are unable to represent their country of current citizenship (for example because selection criteria require the person be residing/competing in the country they represent); and the lack of international competition will significantly impact on their ability to reach their full potential in their chosen field.

Resumption of citizenship: assessing significant hardship or detriment – additional examples

If in his or her application for resumption, the applicant gives reasons significantly different to those given at the time of renunciation, the discrepancy must be addressed by putting these concerns to the applicant for comment. Procedural fairness should be provided to the applicant and a decision-maker should take into

account all relevant considerations, including any discrepancy in reasons and any explanation provided for that discrepancy.

Examples of the type of significant hardship or detriment for the purposes of subsections 29(2) and (3) of the Act, that a person renounced Australian citizenship in order to avoid, may include:

- Inability to obtain employment without renouncing Australian citizenship. To resume Australian citizenship in reliance upon the 'avoid suffering significant hardship or detriment' limb of section 29(2)(a)(i) of the Act, the applicant would need to demonstrate that they renounced Australian citizenship to avoid significant hardship or detriment.
 - It may be relevant for the decision maker to consider whether the skills the person had at the time of renunciation were only relevant to the employment they were engaged in overseas or whether they could have been utilised in alternative employment not requiring sole citizenship.
 - It may also be relevant for the applicant to be able to provide a letter from the employer attesting that the applicant could not be a dual citizen when commencing employment. Such a letter may be available on the applicant's renunciation file.
- A requirement to pay significantly higher taxes as a non-citizen, where the higher taxes may have prevented a person being able to afford fundamental assets such as a family home.
- Denial of the usual marital rights in relation to tax and inheritance laws on the death of a spouse or otherwise.
- Ineligibility to obtain a driver's licence, which may affect a person's employment prospects.
- Denial of, or significant restrictions on, access to social security benefits.
- Ineligibility to undertake formal courses of study and/or obtain certain educational qualifications.
- Inability to access loans from financial institutions.
- Ineligibility to purchase or retain property.
- Inability to allow their children to participate fully in the social, political and cultural life of their other country of residence.
- Inability for families to be treated as a unit when family members hold different passports.

4. Accountability and Responsibility

Role	Description
Officers delegated as Australian citizenship decision-makers	Responsible for giving due consideration to the contents of this Instruction to their decision-making, in order to take into account relevant considerations, as part of making lawful, fair and reasonable decisions. For further information on the Instrument of delegation refer to MHA No. 4 of 2018 (onshore) and DEL17/085 (offshore).
Citizenship supervisors and managers	Responsible for ensuring citizenship decision-makers are acting in accordance with the Act and Australian Citizenship Regulation 2016, and any other relevant laws. Responsible for ensuring that citizenship decision-makers give due consideration to relevant policies set out in this Instruction, in order to take into account relevant considerations. Broad oversight to ensure that decision-makers are exercising their powers appropriately

Role	Description
Citizenship Helpdesk	Responsible for providing accurate and appropriate advice in accordance with the Act and Australian Citizenship Regulation 2016, and any other relevant laws, and providing advice on this Instruction in order to ensure that decision-makers take into account relevant considerations, noting however that decision-makers should continue to exercise their statutory discretions in an unfettered manner.
Officers providing advice on Administrative Appeals Tribunal (AAT) matters	Responsible for providing accurate and appropriate advice in accordance with the Act and Australian Citizenship Regulation 2016, and any other relevant laws, and for providing advice on this Instruction, in order to ensure that decision-makers take into account relevant considerations, as it relates to matters before the AAT.
Officers providing training to stakeholders	Responsible for ensuring that training content is accurate and is in accordance with the Act and Australian Citizenship Regulation 2016, and any other relevant laws. Responsible also for ensuring that training content discusses this Instruction insofar as it may contain policies which are relevant considerations for decision-makers.
Director, Citizenship Operations Section	Accountable for ensuring that the information contained in this Instruction is kept up to date, is accurate and meets stakeholder requirements.
Assistant Secretary, Citizenship and Multicultural Affairs Programs	Accountable for the quality and delivery of the Citizenship Program.
Assistant Secretary, Integration, Citizenship and Social Cohesion	Accountable for ensuring that this Instruction is consistent with the Act and Australian Citizenship Regulation 2016, and any other relevant laws. Accountable also for policy framework.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
V1.0		Citizenship Operations Section	This is a new Instruction which will replace the Australian Citizenship Instructions in LEGEND.

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Attachment A – Assurance and Control Matrix

1.1. Powers and Obligations

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
<i>Australian Citizenship Act 2007</i>	Various	See section 3.1 of this instruction.	Yes	MHA No. 4 of 2018 (onshore) and DEL17/085 (offshore)
<i>Australian Border Force Act 2015</i>	4	Definition of an Immigration and Border Protection worker.	No	Australian Border Force Act 2015

1.2. Controls and Assurance

Related Policy	Citizenship Policy Statement (VM-1545)
Procedures / Supporting Materials	<p>Related instructions:</p> <p>Citizenship Instruction 4 - Citizenship by Conferral – persons under the age of 18 (VM-5281)</p> <p>Citizenship Instruction 8 - Residence requirements and discretions (VM-5285)</p> <p>See Citizenship Instruction 13 – Best interests of the child assessments (VM-5290)</p> <p>Citizenship Instruction 17 – Decision Making under the Citizenship Act (VM-5253)</p> <p>Citizenship Instruction 27 – Resumption of Australian Citizenship (VM-5303)</p> <p>Citizenship Instruction 28 – Renunciation of Australian Citizenship (VM-5304)</p>
Training/Certification or Accreditation	Citizenship training applicable to all officers undertaking duties under the <i>Australian Citizenship Act 2007</i> .
Other required job role requirements	Nil.
Other support mechanisms (eg who can provide further assistance in relation to any aspects of this instruction)	Departmental staff should raise any questions with their supervisor in the first instance. Inquiries should be sent to the Citizenship Helpdesk.
Escalation arrangements	Escalation, if required, should be to Director, Citizenship Operations Section.
Recordkeeping (eg system based facilities to record decisions)	ICSE.

Control Frameworks (please refer to a specific document outlining QA or QC arrangements)	It is anticipated that the revised quality management framework, a key element of the Visa and Citizenship Operating Model (VCOM2020), will be implemented in the 2019-20 program year. This will inform enhanced quality approaches across Divisions and Branches. Citizenship has been identified as one of the first caseloads to be incorporated into the revised quality management framework.
Job Vocational Framework Role	Citizenship processing

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Attachment B – Consultation

1.1. Internal Consultation

Date	Area	Comments provided
25/02/2019	Citizenship Network	Nil
25/02/2019	Citizenship Program Management Section	Nil
25/02/2019	Citizenship Policy Section	27/02/2019 – considered/actioned.
25/02/2019	Integrity and Professional Standards Branch	27/02/2019 – nil concerns.
05/03/2019	Procedural Policy Control Framework Legal	

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