



Home Office

# Registration as a British citizen: children

Version 9.0

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# About this guidance

This guidance tells nationality caseworkers about the registration of minors as a British citizen by entitlement and discretion.

The [British Nationality Act 1981](#) contains provisions for children to be registered as a British citizen. This guidance covers the following sections of the act:

- [sections 1\(3\), 1\(3A\) and 1\(4\)](#) provide registration by entitlement of people born in the UK after 1 January 1983
- [section 1\(4\)](#) provides an entitlement provision for either a child or an adult
- [sections 3\(2\) and 3\(5\)](#) provide registration by entitlement of minors born outside the UK and qualifying territories to British citizens by descent
- [section 3\(1\)](#) provides a discretionary provision for registration as a minor

Applicants or their parents will not necessarily know what section of the act they are applying under. You must therefore consider which section a child has an entitlement to registration under. This guidance is structured in an order to assist in the process of considering an applicant under the relevant provisions.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Nationality Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **9.0**
- published for Home Office staff on **18 July 2022**

## Changes from last version of this guidance

Changes made to the policy on registration under section 3(1), adding 3 additional cohorts where we would normally register.

### Related content

[Contents](#)

# How to consider registration of minors by entitlement and discretion

Within the British Nationality Act 1981 a 'minor' is defined as a person under the age of 18.

Before considering registration you must check whether the child is already a British citizen. The minor may already be a British citizen without the parents realising it, in which case there is no need to register.

If the applicant is not already a British citizen, you must consider whether:

- the child has an entitlement to registration through birth
- the child meets the normal criteria for registration at the Home Secretary's discretion
- the case is exceptionally compelling or compassionate

## Checking for possible entitlement to registration

The [British Nationality Act 1981](#) contains a number of provisions which give minors in certain circumstances an entitlement to registration as British citizens. They are:

- [section 1\(3\)](#) or section 1(3A) for UK born minors whose parent has become a British citizen or settled here, or a member of the armed forces
- [section 1\(4\)](#) for UK born minors with residence in the UK from birth to age 10
- [section 3\(2\)](#) born to British citizens outside the UK
- [section 3\(5\)](#) born to British citizens outside the UK where the family have lived in the UK for 3 years
- [section 4\(2\)](#) or [section 4B](#) for people who already have some form of British nationality, including:
  - British overseas territories citizen
  - British overseas citizen
  - British national overseas
  - British subjects
  - British protected persons
- [section 4D](#) born outside the UK to a parent serving in the armed forces
- [section 4F](#) would have an entitlement to registration had the child's mother been married to their natural father
- [section 4G](#) born after 1 January 1983 and would have become a British citizen automatically had the child's mother been married to their natural father
- Section 4K for people who register as a British overseas territories citizen under section 17A, 17C-F or 17I
- [section 5](#) BOTC citizens with a connection to Gibraltar
- schedule 2 paragraphs 3, 4 and 5 stateless minors

Once you have established that a child applicant is not already a British citizen you must consider whether an entitlement to registration exists under any of the above provisions.

You must ensure that a child is registered under the appropriate provision. A child with an entitlement should be registered under that entitlement and not by use of the discretion under [section 3\(1\)](#). Failure to register a child under the appropriate section could adversely affect future generations. This is because in some cases registration under [section 3\(1\)](#) would give British citizenship by descent, whereas registration under an entitlement provision would give British citizenship otherwise than by descent.

It will not normally be possible to tell whether a child has an entitlement just by seeing what form is used. This is because the same form is used for a number of different provisions, or the person making the application may not know whether a child has an entitlement.

## Evidence to be supplied

To guard against the possibility of fraud, we would expect to see the evidence of identity over and above that required to establish an entitlement to registration. You must not accept a birth certificate as evidence of identity. A birth certificate is evidence of an event not the individual's identity.

We should take into account any evidence already on the file. If documents have been seen and noted in the past there is no need to ask to see them again. If the parents' marriage or a parent and child relationship has been accepted as valid by an entry clearance officer, immigration officer, Home Office official or any tribunal or court in the UK, there is no need to ask for further evidence unless there is a reason to doubt the previous decision. In addition, in some situations a subsisting relationship is accepted for immigration purposes but for nationality purposes a valid marriage is needed.

## Safeguarding

If you have any safeguarding concerns about a child you must speak to an Executive Officer (EO) or senior caseworker, who will decide if referral to social services or the police is appropriate.

### Related content

[Contents](#)

Registration as British citizen: children of British parents

British citizenship: automatic acquisition

# Children born in the UK

## Requirements for registration under section 1(3)

Children are entitled to registration under [section 1\(3\) of the British Nationality Act 1981](#) if:

- they were born in the UK
- they were not British citizens at birth because at the time neither parent was a British citizen or settled
- while they are minors either of the parents has since become a British citizen or settled in the UK
- they are under the age of 18 on the date the application is received
- they are of good character if over the age of 10

Registration under [section 1\(3\)](#) gives British citizenship otherwise than by descent.

## Evidence required under section 1(3)

Applications under [section 1\(3\)](#) must be supported by the following evidence, if relevant:

- child's full birth certificate showing birth in the UK, parents' details and registration in the 12 month period following birth
- evidence of parent's British citizenship since the applicant's birth, such as:
  - a British passport
  - a naturalisation certificate
  - a registration certificate
- evidence of parent's settled status since the applicant's birth, such as one of the following:
  - an indefinite leave to remain (ILR) stamp in a passport
  - a Home Office letter
  - a no time limit stamp
  - a biometric residence permit (BRP) confirming ILR
- a marriage certificate, if:
  - the parent on whom the claim is based became a British citizen or settled in the UK after the child was born
  - the child was born prior to 1 July 2006 to a father who is a British citizen or settled in the UK. (If the child was born before 1 July 2006 and the parents were not married, see the guidance on Children of British Parents.)

## Requirements for registration under section 1(3A)

Children are entitled to registration under [section 1\(3A\) of the British Nationality Act 1981](#) if:

- they were born in the UK on or after 13 January 2010



- they were not a British citizen at birth, as at the time neither parent was:
  - a British citizen
  - settled in the UK
  - serving in the UK armed forces
- while they are under the age of 18 either parent becomes a member of the UK armed forces
- they are under the age of 18 on the date of application
- they are of good character if over the age of 10

Registration under [section 1\(3A\)](#) gives British citizenship otherwise than by descent.

## Evidence required under section 1(3A)

Applications under [section 1\(3A\)](#) must be supported by the following evidence:

- child's full birth certificate showing birth in the UK on or after 13 January 2010
- evidence of parent's service in the UK armed forces
- a Home Office stamp showing the holder is entitled to exemption under [section 8\(4\) of the Immigration Act 1971](#)
- a letter from the Ministry of Defence confirming service in the armed forces (including details of the postings at the time of birth and dates of service)

## Requirements for registration under section 1(4)

Children and adults are entitled to registration under [section 1\(4\) of the British Nationality Act 1981](#) if:

- they were born in the UK
- they were not a British citizen at birth as at the time of birth neither parent was a British citizen nor settled in the UK
- they are aged 10 years or over on the date of the application
- they have lived in the UK for the first 10 years of their life
- they have not been outside of the UK for more than 90 days in each of the first 10 years of their life
- the Secretary of State is satisfied they are of good character

Registration under [section 1\(4\)](#) gives British citizenship otherwise than by descent.

## Evidence required under section 1(4)

Applications under [section 1\(4\)](#) must be supported by the following evidence:

- applicant's full birth certificate to confirm that they were born in the UK and that they are 10 years or over on the date of application
- evidence of residence to cover the first 10 years of the applicant's life

The evidence of residence will differ for the different periods of a child's life. Documents from the following list can establish residence:

- aged up to 5 years:
  - passport or travel document
  - medical records
  - vaccination records
  - doctors' letters
  - personal child health record (red book)
  - letters from child's nursery
- aged 5 to 10 years:
  - letters from child's school confirming attendance
  - passport or travel document for the full 10 year period to confirm absences during the period

If no absences were shown you can accept this as the case.

## Parental consent for applications under 1(3), 1(3A) and 1(4)

As the applicant has an entitlement to be registered as a British citizen if the requirements in [sections 1\(3\), 1\(3A\) and 1\(4\)](#) are met, the absence of parental consent (in cases where the applicant is a minor) is not a reason for refusal. It is good practice to gain consent of all those with parental responsibility for the child and it should normally be requested, but this is not mandatory. If the [consent](#) is not gained it is not a reason for refusing the application.

## Discretion to allow excess absences in the first 10 years of a child's life

[Section 1\(7\) of the British Nationality Act 1981](#) gives discretion to allow absences of more than 90 days in any one or more of the first 10 years of the person's life. You should normally waive excess absences if:

- the number of days absent from the UK in any one of the years does not exceed 180 days and the total number of days over the 10 year period does not exceed 990 days
- the number of days absent exceeds 180 or 990 respectively but was due to circumstances beyond the family's control, such as a serious illness

You must not waive excess absences over 180 days in a single year or 990 days in the 10 year period where:

- the only reason was that the applicant was unaware of the requirements, without there being any special circumstances
- the parents' absences with the child were entirely voluntary

## Checking for entitlement under paragraph 3 of schedule 2

If there is no entitlement under [section 1\(3\), 1\(3A\) or 1\(4\)](#), the child may have an entitlement under [paragraph 3 of schedule 2](#) if they are stateless.

If there is no entitlement under either section 1(3), 1(3A), 1(4) or paragraph 3 of schedule 2, you must:

- **if under 18**, consider the application under [section 3\(1\)](#) if a child on the date of application
- **if over 18**, refuse the application and explain to the applicant that they will need to apply for naturalisation or adult registration

## Parent applying for citizenship

If a parent is applying for citizenship, and has included a child's application with their application, the child may be entitled to registration under one of the previous entitlement provisions, even if the parent's application is refused.

## Parent applying for indefinite leave to remain or confirmation of permanent residence

It is possible that a parent may apply for indefinite leave to remain (ILR) either at the same time as applying for the registration of a child or before an application has been decided. In these circumstances, the parent's application for ILR must be determined first as the outcome could affect the child's registration application. A senior caseworker should be consulted for advice in this situation.

## Parent applying to join the armed forces

It is possible that a parent may have applied to join the armed forces and is awaiting a decision on whether their application has been accepted. If the parent's recruitment is imminent, (expected within 1 month) you must ask the parent to provide confirmation from the Ministry of Defence that their contract of employment has been completed. If it has, you must regard the child's application as having been made under [section 1\(3A\)](#) provided the other requirements are met and have been determined accordingly.

## Oath and pledge

Unlike adults, when children successfully obtain citizenship there is no legal requirement for them to attend a ceremony and take the [oath and pledge](#). However, if they are part of a successful family application they will receive an invitation along with their parents to attend the ceremony and receive their certificate of registration, and if they wish, take the oath and pledge.

An oath of allegiance and pledge may have to be taken at the citizenship ceremony if either of the following applies:

- the applicant applies under [section 1\(4\)](#) as an adult
- the applicant applies as a child and becomes an adult by the time the case is decided

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# Children born outside the UK

For children born outside the UK, you must first consider whether the person has an entitlement under [section 3\(5\) of the British Nationality Act 1981](#), which gives British citizenship otherwise than by descent. You must then consider whether there is an entitlement under [section 3\(2\)](#). If no entitlement exists, you must consider the application under [section 3\(1\)](#).

## The law in relation to section 3(5)

Legitimated children are entitled to registration as a British citizen under [section 3\(5\) of the British Nationality Act 1981](#) if:

- they were born outside the UK
- at the time of the birth they had a parent who was a British citizen by descent
- they are under the age of 18 when the application is made
- the child and both of their parents were in the UK at the beginning of the 3 year period ending with the date of the application
- the child and both of their parents have not been absent from the UK for more than 270 days in that 3 year period
- the consent of both parents is given to the application
- children aged 10 or over on the date of application are of good character

There is no discretion to accept a longer period of absence than 270 days in the 3 years before the date of the application.

If the child was born before 1 July 2006, and the parents were not married, all references to a parent are references to the mother only, unless the child's birth was legitimated by the parents' subsequent marriage.

If the child was born on or after 1 July 2006 and the parents were not married, all references to a parent are references to the mother, and also the father if he satisfies the definition of father.

The residence requirements need be met only by the child and either one of their parents if on or before the date of the application either:

- the child's mother or father has died
- the parents':
  - marriage or civil partnership had ended in divorce or dissolution
  - were legally separated on the date of the application

If either one of the parents has died, only the consent of the surviving parent is required. See [parental consent](#).

## Evidence required under section 3(5)

Applications under [section 3\(5\)](#) must be supported by the following evidence:

- child's full birth certificate showing parents' details
- evidence of the parent's British citizenship by descent at the time of the child's birth
- if the claim is through the father and the child was born before 1 July 2006 the parents' marriage certificate
- passports or alternative evidence of residence for the children and the parents to confirm:
  - residence in the UK for 3 years immediately before the date of application
  - they had not been absent from the UK for more than 270 days in that 3 year period
- if one of the parents has died, the death certificate for the deceased parent
- if the parents' marriage or civil partnership has ended in divorce, either:
  - the parents' divorce certificate
  - a decree of nullity
  - evidence of dissolution of civil partnership
  - a decree of judicial separation

## Parental consent for applications under 3(5)

Parental consent is a statutory requirement for registration under [section 3\(5\)](#). There is no discretion to waive this requirement. This means that you cannot register a child under [section 3\(5\)](#) unless both parents or one parent in the examples given [in the evidence required section](#), have given their consent to the child's registration, even if all other requirements are met. There is no exception to this rule.

The consent of the parents has to be given in writing and be signed. This requirement is met if the consent section of the form is completed by the parent or parents.

You must request consent where only one parent has given consent, and the consent of both parents is required.

If the appropriate consent cannot be obtained, you must consider an alternative route for citizenship.

## The law in relation to section 3(2)

Children are entitled to registration as British citizens under [section 3\(2\) of the British Nationality Act 1981](#) if:

- they are born outside the UK
- either parent (the parent in question) was a British citizen by descent at the time of the child's birth
- the mother or father of the parent in question (the child's grandparent) became or but for their death would have become, a British citizen otherwise than by descent either:
  - on 1 January 1983
  - at the time of the parent's birth

The child's parent must meet the residence requirements listed below, unless the child was born stateless.

The parent in question must:

- have lived in the UK for a continuous period of 3 years at any time before the child's birth
- have been in the UK at the beginning of that 3 year period
- not have been absent from the UK for more than 270 days in that 3 year period

If the child was born on or after 21 May 2002 the parent in question can also meet the above residence requirements through residence in a qualifying overseas territory.

The child must also be of good character if over the age of 10.

## Documentary evidence required under section 3(2)

Applications under [section 3\(2\)](#) must be supported by the following evidence:

- child's birth certificate showing parents' details
- the relevant documentation to establish that the parent in question was a British citizen by descent at the time of the child's birth
- the relevant documentation to establish that the grandparent:
  - was a British citizen otherwise than by descent at the time of the child's parent's birth
  - became or would but for their death have become such a citizen on 1 January 1983
- parents' marriage certificate if the claim is through the father
- if the child was not born stateless, passports or other documents to establish that the parent in question:
  - lived in the UK or qualifying territories for 3 years prior to the child's birth
  - was not absent from the UK or qualifying territories for more than 270 days in that 3 year period
- if the child was born stateless:
  - a letter from the authorities of the country of the child's birth confirming the child did not acquire that country's citizenship or nationality at birth
  - if the other parent is neither a British citizen or a national of the country of the child's birth a letter from the authorities of the country of which the parent is a citizen confirming the child did not acquire that country's citizenship or nationality at birth

## Parental consent for applications under 3(2)

As the child has an entitlement to be registered as a British citizen there is no legal requirement for the parent to consent to the application. However, you must note any information provided about [consent](#).

## Checking for entitlement under paragraph 4 schedule 2

If the child (but not the parents) has lived in the UK for the 3 years immediately before the application, there may be an entitlement to registration under [paragraph 4 of schedule 2 of the British Nationality Act 1981](#), which gives British citizenship otherwise than by descent.

If the child does not have an immediate entitlement under [sections 3\(2\) and 3\(5\)](#) or [paragraph 4 of schedule 2](#), or does not wish to wait for a possible future entitlement under these sections, the application must be considered under the discretionary provision of [section 3\(1\)](#).

### **Related content**

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# Discretionary applications under section 3(1)

This section explains the circumstances in which it will normally be appropriate to exercise discretion. There are certain scenarios where you would normally be expected to register a child as a British citizen. In all other cases you must apply the criteria for all other children.

## The law in relation to section 3(1)

This is a discretionary provision for the registration of a child. The Home Secretary may exercise their discretion to register people as British citizens under [section 3\(1\) of the British Nationality Act 1981](#) if:

- the applicant is under 18 at the date of the application
- if aged 10 years or over on the date of application the applicant is of good character see good character requirements
- they think fit to register them

These are the only statutory requirements. This guidance sets out how you must normally use discretion.

It is important to remember that this guidance does not amount to definitive rules. It will enable you to consider the majority of cases, but because the law gives complete discretion, you must consider each case on its merits. All the relevant factors must be taken into account, together with any representations made to us.

It is possible to register a child under circumstances that would normally lead to the refusal of an application if this is justified in the particular circumstances of any case.

Equally, if there is good reason to do so, it is possible to refuse to register a child under circumstances that would usually lead to the grant of an application. In particular, the Home Secretary may refuse to grant a certificate where it would not be in the public interest to grant citizenship. This could be for reasons relating to their actions, behaviour, personal circumstances, or associations such as family relationships.

For example, citizenship may be refused where:

- granting the application could have an adverse impact on international relations
- a decision to grant would be so perverse as to undermine confidence in the immigration and nationality system

In particular, the applicant's associations, including family relationships, with those who have been or who are engaged in terrorism, or extremist behaviour or who have raised security concerns, will normally warrant a refusal of citizenship. You must give

due regard to whether an association is current or whether family ties have been severed.

Registration under [section 3\(1\)](#) will give British citizenship by descent if the father or the mother was a British citizen at the time of the child's birth.

In all other cases registration gives British citizenship otherwise than by descent.

For the purpose of whether the child is a British citizen by descent:

- the father or mother does not include an adoptive father or mother
- father includes the father of a child whose parents were not married if:
  - the child was born on or after 1 July 2006
  - the mother was not married to another man at the time of the birth
  - the natural father satisfies the prescribed requirements as to [proof of paternity](#)

Children registered under [section 3\(1\)](#) will therefore be British citizens otherwise than by descent if they were adopted by British citizens.

## **British parent in service which becomes designated or community institution service**

A child who is born to a parent who is a British citizen in designated or community institution service overseas may be a British citizen, subject to where the parent was recruited.

This section applies to children who were born whilst the parent was in such service, but before the service was designated or admitted as a community institution.

Exercising discretion in this scenario aims to place the child in the same position as a child born to a British parent after the service becomes designated or its admission as a community institution.

You must normally register a child if:

- they were born before the date of designation or admission as a community institution
- the mother or father is, or was at their death, a British citizen by descent
- the parent is, or would have been, in designated service or community institution service on the date of the application
- at the time of the child's birth the parent was in that service before it was designated or admitted
- where necessary, both parents consent to the registration or any objections by the non-applying parent are ill founded
- there is no reason to refuse on character grounds

## Documentary evidence to be supplied

The evidence will vary according to the circumstances of the parents. In every case you must expect to see evidence supplied from the documents listed below:

- the child's birth certificate showing parents' details
- the relevant parent's birth certificate showing his or her parents' details
- the parents' marriage certificate if appropriate
- the grandparents' birth and marriage certificates if appropriate
- evidence that the parent was in the relevant service at the time of the birth
- evidence of the place of recruitment

## Children born to a parent who has renounced and subsequently resumed British citizenship

You must normally register a child if:

- the mother or father has renounced and subsequently resumed British citizenship
- the child was born before the date of resumption
- that parent either:
  - became a British citizen otherwise than by descent on resumption
  - was a British citizen by descent and the child would have an entitlement to registration [under section 3\(2\) or 3\(5\) of the British Nationality Act 1981](#) had the parent not renounced
- where necessary both parents consent to the registration or any objections by the non-applying parent are ill founded,
- there is no reason to refuse on character grounds

## Documentary evidence to be supplied

The evidence will vary according to the circumstances of the parents. In every case you must expect to see:

- the child's birth certificate showing parents' details
- the relevant parent's birth certificate showing his or her parents' details
- the parents' marriage certificate if appropriate
- the grandparent's birth and marriage certificates if appropriate
- evidence of renunciation and resumption (you will find evidence in the applicant's case notes history on CID)

## Children born to a parent registered under section 4C, 4G, 4H, 4I of the British Nationality Act 1981

[Section 4C of the British Nationality Act 1981](#) allows those born abroad before 1 January 1983 to British mothers to be registered as a British citizen. [Sections 4G, 4H and 4I](#) are registration provisions for those who would have become British

automatically if their parents had been married. Any child born outside of the UK after the parent who is a British citizen otherwise than by descent will be a British citizen under [section 2\(1\)](#) .

You must normally register a child if:

- the child was born before the parent registered under one of the above sections
- the child would be a British citizen or have an entitlement to be registered under [section 3\(2\) or 3\(5\)](#)
- where necessary both parents consent to the registration or any objections by the non- parent are ill founded
- there is no reason to refuse on character grounds

## Documentary evidence to be supplied

Applications under [sections 4C, 4G, 4H, and 4I](#) must be supported by the following evidence:

- the child's birth certificate showing parents' details
- the relevant parent's birth certificate showing their parent's details
- the parents' marriage certificate if appropriate
- the grandparents' birth and marriage certificates if appropriate
- evidence of the parent's registration

## Children adopted by British citizens

Special consideration needs to be given to children adopted abroad, and the decision in such cases will depend very much on the circumstances of the adoption.

The guidance below provides advice on when you should and should not register a child. Children adopted overseas by British citizens may have an automatic claim to British citizenship under [section 1\(5\) of the British Nationality Act 1981](#) if the adoption is a [Hague Convention adoption](#). It will only be necessary to consider the case for registration under [section 3\(1\)](#) if [section 1\(5\)](#) does not apply.

## Overseas adoptions recognised by UK law

Where [section 1\(5\)](#) does not apply you must normally only register children adopted overseas by a British citizen in countries or territories whose adoption procedures are recognised by the UK, and subject to the additional criteria below. Countries and territories whose adoption procedures are recognised by the UK include those listed in:

- [The Adoption \(Recognition of Overseas Adoptions\) Order 2013](#)
- [The Adoption \(Recognition of Overseas Adoptions\) \(Scotland\) Regulations 2013](#)
- [the Hague Convention on inter country adoption](#)

The additional criteria are that:

- the adoption is not informal or temporary
- under the law of the country where the adoption took place the child is the child of the adoptive parents alone and the legal relationship with the birth family has been completely terminated
- at least one of the adoptive parents is a British citizen otherwise than by descent
- the current parent(s) have [consented](#)
- there is no reason to refuse on character grounds
- you are satisfied that all relevant adoption laws have been adhered to, this includes the laws of the country in which the adoption has taken place, the country of origin of the child and the country in which the adoptive parents are habitually resident
- you are satisfied the adoption is not one of convenience arranged to facilitate the child's admission to the UK

If some or all of the criteria set out in the above paragraph are not met, you must consider the application on its merits and only register the child if there are exceptionally compassionate or compelling circumstances.

Even where the above criteria are met, there may be reasons why the child should not be registered. This could be where there are serious doubts about an adoptive parent's character or suitability to adopt a child, or irregularities in the adoption procedure. To register a child in these circumstances could circumvent measures intended to [safeguard children](#).

You must normally refuse applications for registration under [section 3\(1\)](#) made solely on the grounds that the applicant had been adopted by a British citizen in a country or territory whose procedures are not recognised by UK law. However, you must consider all applications on their merits, and you may register the child as a British citizen if there are exceptional, compelling or compassionate circumstances justifying a grant of British citizenship. This may be the case even where there is an intention to remain outside the UK.

## Children brought to the UK with a view to adoption in the UK

Sometimes British citizens bring children to the UK either having gone through a form of adoption which is not recognised as such in the UK, or sometimes without any formality in the country of origin at all. If permitted to enter the UK, the children will usually be given limited leave to enter pending the completion of adoption proceedings in the UK. You must normally refuse any application for registration until the formal adoption process is complete and the parents have been given formal responsibility by the courts.

## Adoption in the UK and qualifying territories

By virtue of [section 1\(5\) of the British Nationality Act 1981](#) a child will become a British citizen on the date of adoption, where they are:

- not a British citizen at birth

- adopted by order of a court in the UK, on or after 21 May 2002, in a qualifying territory:
  - provided the adopter, or in the case of joint adoption, one of the adopters is a British citizen.

If an adoption order has been refused and an application for registration is made under [section 3\(1\)](#) you must examine the reasons for refusal to see if they are relevant to the application. You must confirm whether the person making the application on behalf of the child has any parental responsibility or authority to act on the child's behalf.

When someone other than the parent has parental responsibility, you would normally expect the usual criteria to be met, including that relating to the citizenship and immigration status of the parents.

## Evidence to be supplied in adoption cases

In all adoption cases the following evidence is required:

- the child's birth certificate, or where the child has been abandoned, a certificate of abandonment from the authorities previously responsible for the child
- evidence of the relevant adoptive parent's claim to British citizenship otherwise than by descent
- the consent of the adoptive parents to the registration
- the adoption order
- a contemporary report from the overseas equivalent of the social services department which details:
  - the child's parentage and history
  - the degree of contact with the original parents
  - the reason for adoption
  - the date, reason and arrangements for the child's entry into an institution or foster placement
  - when, how and why the child came to be offered to the adoptive parents
- evidence of the parents' country of [usual residence](#)

Where the parents are usually resident in the UK confirmation that they have been assessed and approved as eligible to become an adoptive parent. If there are any doubts about the validity of the documentation provided, the Department for Education (DfE) can be contacted for confirmation that the parents have had the relevant approval. DfE hold details on all approvals not just those in England and Wales from either:

- [DfE](#) - for those in England and Wales
- the Scottish Government Care and Justice Division (for those parents in Scotland)
- from the Department of Health, Social Services and Public Safety - Northern Ireland (for those resident in Northern Ireland)

Where the parents are not usually resident in the UK, evidence from the equivalent of the social services in their country of residence that all relevant adoption laws have been complied with.

If it is clear from Home Office papers that the UK immigration authorities have already seen the adoption order and have accepted the adoption for immigration purposes, you do not need to see it again.

**Related content**

[Contents](#)

# Children of unmarried British citizen or settled fathers

Fathers could not transmit British citizenship or the benefits of their settled status to their children born before 1 July 2006, unless they were married to the child's mother at the time of the birth ([section 50\(9\) of the British Nationality Act 1981](#) (BNA 1981)). However, a child's birth could be legitimated, if the parents later married and the marriage served to legitimate the child in the law of the place where the father was domiciled at the time of the marriage.

Section 9 of the [Nationality, Immigration and Asylum Act 2002](#) amended the British Nationality Act 1981 to allow unmarried fathers to transmit citizenship to their children born on or after 1 July 2006, provided there is satisfactory evidence of paternity. The changes do not apply to anyone born before that date.

[Sections 4F to 4I of the British Nationality Act 1981](#) came into force on 6 April 2015. These provide a number of registration routes for those born who would have automatically become British citizens or would be entitled to registration under other provisions of the British Nationality Act 1981, had their parents been married at the time of their birth.

If a child has an entitlement to register under [sections 4F to 4I](#), they must be registered under that relevant section. However, where a child does not qualify under any of those provisions, you must normally register the child under [section 3\(1\)](#) if they were born to a British citizen or settled father, and the criteria below are all met:

- you are satisfied about the paternity of the child
- you have the consent of all of those with parental responsibility (see [parental consent guidance](#))
- had the child's parents been married they would normally have registered under [section 3\(1\)](#)
- if the child is 10 years or older there is no reason to refuse on character grounds

## Children born on or after 1 July 2006

Where a child's mother is married at the time of the birth, her husband (and no other man) is regarded as the father of any child born to her on or after 1 July 2006. However, where there is evidence that a British or settled man, and not the mother's husband, is the child's natural father, the child can apply under section 4F or 4G – see the guidance on [Children of British Parents](#).

There is no fee for applications under 4F and 4G. If, however, on considering the case you find that the child does not qualify under 4F or 4G, but there are nevertheless grounds to register under section 3(1), you must request the fee.



## How to decide the paternity of the child

[The British Nationality \(Proof of Paternity\) Regulations 2006](#) (2006 regulations) came into effect on 1 July 2006 and were amended on 10 September 2015. These regulations set out the requirements to be met to prove paternity in cases where:

- the mother was not married at the time of the child's birth
- no provision is made by section 28 of the [Human Fertilisation and Embryology Act 1990](#), or sections 35, 36, 42 and 43 of the [Human Fertilisation and Embryology Act 2008](#) as to the identity of the father, see Surrogacy guidance

In such cases the 'father' will be any person who is shown to be such by either:

- being named before 10 September 2015 as the child's father on the birth certificate issued within 12 months of the birth
- in all other cases any evidence such as DNA test reports, court orders or birth certificates considered by the Secretary of State to establish paternity

You must not mandate DNA evidence as this is not a requirement. Applicants can choose to volunteer DNA evidence, either proactively or in response to an invitation to submit further evidence. Where applicants choose not to volunteer DNA evidence, no negative inferences can be drawn from this. See DNA policy guidance for full instructions on the use and consideration of DNA evidence to prove a biological relationship.

Where a person is named as the child's father on a birth certificate issued within 12 months of the birth before 10 September 2015, he must be recognised as the father, unless there is conclusive evidence that the paternity claim was made fraudulently.

Where the child's birth was registered on or after 10 September 2015 you must take into account the fact that a man is named as the father on a birth certificate along with any other evidence that is available. In most circumstances the fact that a father is named on the birth certificate will be sufficient evidence of paternity, unless there is any information to suggest that the details on the birth certificate are not true. This might be where the parents were not in the same country at the time of conception, or another man claims to be the father, or there is DNA evidence to suggest that the child is not related as claimed to the man named on the birth certificate. In such cases the birth certificate can be discounted if there is conclusive evidence to show that another man is in fact the child's natural father.

Although the 2006 regulations only apply to children born on or after 1 July 2006, you should expect to see the same evidence in support of an application for registration under [section 3\(1\)](#).

The 2006 regulations do not specify what forms of evidence apart from those specifically mentioned might be acceptable. However, you may normally accept that a man is the father of a child if paternity has been acknowledged in some other official context, for example, if the child was born abroad and the relationship has been accepted for UK immigration purposes.

## Evidence to be supplied

Applications should be supported by the following evidence:

- father's birth certificate
- child's birth certificate showing parents' details
- evidence of [paternity](#)
- if necessary, the consent of the non-applicant parent
- if the child was born abroad and the father is a British citizen by descent the case meets the criteria for all other minors, see [other applications under section 3\(1\)](#)

## Children born to surrogate mothers

General guidance on surrogacy and how to identify the legal parents in such cases may be found in the surrogacy guidance. In most cases the commissioning couple will have no legal relationship to the child and will therefore be unable to pass on the benefits of British citizenship or settled status automatically.

## Where a man is the biological father of the child

In some cases, a commissioning father who is biologically related to the child will be able to pass on citizenship automatically to a surrogate child, where the mother is not married and proof of paternity can be produced. However, where the surrogate mother was married to someone else at the time of the birth, her husband is the 'father' for nationality purposes.

You must normally register the child where:

- you are satisfied about the [paternity of the child](#)
- you have the consent of all those with [parental responsibility](#)
- had the child's parents been married the child would have qualified for one of the following:
  - an automatic claim to British citizenship under either [section 1\(1\) or 2\(1\) of the British Nationality Act 1981](#)
  - an entitlement to registration under either [section 1\(3\)](#), [section 3\(2\)](#) or [section 3\(5\)](#)
  - registration under [section 3\(1\)](#)
- there is no reason to refuse on good character grounds if the applicant is over the age of 10 years

## Where a man is not the biological father of the child and cannot meet the definition of 'father' in the BNA 1981

You must normally register the child if:

- you have the consent of all those with [parental responsibility](#) including a notarised statement of consent from the surrogate mother
- you are satisfied that had the child’s parents been married:
  - the child would have had an automatic claim to British citizenship under either [section 1\(1\)](#) or [section 2\(1\) of the British Nationality Act 1981](#)
  - the child would have had an entitlement to registration under either [section 1\(3\)](#), [section 3\(2\)](#) or [section 3\(5\)](#)
  - we would normally have registered under [section 3\(1\)](#)
- there is no reason to refuse on good character grounds if the applicant is over the age of 10 years
- the man has either:
  - an order under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 of the Human Fertilisation and Embryology Act 2008, directing that he be treated as the child’s father
 or:
  - a legal document confirming that he has been recognised as the child’s father within the jurisdiction of the child’s birth, such as a court order or being named on the birth certificate and
  - evidence that the surrogate mother consented to the arrangement after the birth (this is not needed if a post-birth order has been obtained) - this should be dated at least 6 weeks after the birth

## Where a woman (whether the child’s biological mother or not) falls outside the definition of ‘mother’ in the BNA 1981

You must normally register the child if:

- you have the consent of all those with [parental responsibility](#) including a notarised statement of consent from the surrogate mother
- you are satisfied that had the woman been the child’s mother for BNA 1981 purposes:
  - the child would have had an automatic claim to British citizenship under either [section 1\(1\)](#) or [section 2\(1\) of the BNA 81](#)
  - the child would have had an entitlement to registration under either [section 1\(3\)](#), [section 3\(2\)](#) or [section 3\(5\)](#)
  - we would normally have registered under [section 3\(1\)](#)
- there is no reason to refuse on character grounds
- the woman has either:
  - an order under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 of the Human Fertilisation and Embryology Act 2008, directing that she be treated as the child’s mother
 or:
  - a legal document confirming that she has been recognised as the child’s mother within the jurisdiction of the child’s birth, such as a court order or being named on the birth certificate and
  - evidence that the surrogate mother consented to the arrangement after the birth (this is not needed if a post-birth order has been obtained) - this should be dated at least 6 weeks after the birth

## Children born to a woman who is the civil partner of a British citizen

The mother of a child for British nationality purposes is the woman who gives birth to that child. From 6 April 2009, the [Human Fertilisation and Embryology Act 2008](#) provides for the mother's female partner to be treated as the parent of the child. If a child was conceived before the act came into force, and the mother's civil partner is a British citizen, irrespective of whether or not she is biologically related to the child you must consider registering if:

- you have the consent of all those with [parental responsibility](#)
- you are satisfied that had the woman been the child's mother for British Nationality Act 1981 purposes:
  - the child would have an automatic claim to British citizenship under either [section 1\(1\)](#) or [section 2\(1\) of the BNA 81](#)
  - the child would have had an entitlement to registration under either [section 1\(3\)](#), [section 3\(2\)](#) or [section 3\(5\)](#)
  - we would normally have registered under [section 3\(1\)](#)
- there is no reason to refuse on character grounds

## Children applying in line with their parents

We recognise that a number of children apply for registration under section 3(1) at the same time as their parents apply for naturalisation. Such children have usually been living in the UK with the parents and have completed a period of lawful residence.

You must normally register where:

- one parent is a British citizen or about to become one through registration or naturalisation
- the other parent (if involved in the child's life) is a British citizen or settled in the UK
- the child has been resident in the UK for the last 2 years - (if the child is under the age of 2 you can accept a shorter residence period, taking into account the age of the child)
- the child is settled in the UK
- where necessary both parents consent to the registration or any objections by the non-applying parent are ill founded
- there is no reason to refuse on character grounds

If a child does not meet all of the above criteria, you must consider in line with the guidance [on all other minors](#) below.

## Children with settlement and residence

We recognise that some parents may be settled and established in the UK but choose not to become British citizens for valid reasons, such as their own country's

attitude to dual nationality, or to avoid losing rights in their own country. We recognise that their child living in the UK may have nevertheless built up their own connections and still feel a sense of belonging and strong connection with the UK. We therefore do not think it will always be appropriate to expect such a child to have to wait until the age of 18 to apply to naturalise, if the child is an older minor and established in the UK.

You must normally register where:

- the child has completed a period of lawful residence in the UK of more than 5 years
- the child has been granted settled status in the UK, and held that status for at least 12 months (if an earlier application is made you must consider whether there are compelling grounds to overlook this expectation, taking into account the reasons for exercising discretion over time spent in the UK when subject to immigration time restrictions in the [naturalisation guidance](#))
- the child's parents have completed a period of 5 years residence and are settled in the UK
- the child is of good character
- where necessary both parents consent to the registration or any objections by the non-applying parent are ill founded
- there is no reason to refuse on character grounds

If a child does not meet all of the above criteria, you must consider in line with the guidance [on all other minors](#) below.

## Children who have lived in the UK for more than 10 years

If a child has lived in the UK for more than 10 years you must normally register the child if the [expectations](#) below about lawful residence and parents' status are met, in addition to the [good character requirement](#). 10 years is the length of time required for a child born here to have lived in the UK to have an entitlement to register under section 1(4) of the British Nationality Act 1981. As such, 10 years constitutes a significant period of residence for a child to demonstrate a strong connection with the UK. If a child has less than 10 years residence in the UK, you must consider them against the criteria for [all other minors](#) below.

You must normally register if a child has lived in the UK for more than 10 years and:

- the child is in the UK lawfully
- the parents have regularised their own status
- where necessary both parents consent to the registration or any objections by the non-applying parent are ill founded
- there is no reason to refuse on character grounds

However, each case must be considered on its own merits, weighing up arguments made about the individual child's best interests, and taking into account the normal expectations below.

Where a child has been in the UK less than 10 years, it may nevertheless still be appropriate to register – see the section on criteria for all other minors.

## Expectations for a child who has lived in the UK for 10 years

### Compliance with immigration law

We would normally expect the child to be lawfully in the UK. To grant citizenship to a child who is here unlawfully could potentially undermine the immigration system, as it could be viewed as rewarding or incentivising non-compliance. However, we recognise that there may be cases where the unlawfulness was beyond the child's control.

If the child is not here lawfully you must consider whether there are exceptional reasons to grant, in which the reasons put forward for granting citizenship outweigh the need to promote compliance with the immigration law. In considering this, you must take into account the age of the child, the connections they have established with the UK, their length of residence, and their particular circumstances. (For example, it may be appropriate to register an older minor who has lived in the UK since they were a baby, has completed all of their schooling in the UK and has demonstrated very strong personal connections with the UK through relationships and involvement in community groups.)

For younger children (who are not in local authority care) who are in the UK unlawfully, you must not normally grant the application, unless there are exceptionally compelling grounds that justify moving the child from being here unlawfully to becoming a British citizen. Such younger children are not usually at a critical point in their lives where they might lose out on opportunities.

### Parents' status

We would normally expect the child's parents to be here lawfully, as this means that the family's future is likely to be in the UK.

It may be argued that for a child who has lived most of their life in the UK and formed connections here, it is in their best interests to secure their status. However, this is more apparent for older minors who have formed their own independent connections (which they would expect to continue were the parents to leave the UK). A younger child's future, however, will normally follow that of the parents, and so their future intentions may not clearly lie in the UK. The best interests of a younger child could be to follow their parents' residence and status.

In the case of an older teenager, you must therefore consider whether the arguments put forward about the child's interests and strength of connection outweigh the fact that their parents are not here lawfully. If so, and the other expectations are met, you may grant the application.

For younger children, if the parent's status in the UK is precarious (for example, if they are here unlawfully, or are subject to removal action), the child's future may not

lie in the UK. You must weigh up whether the child's circumstances are such that there are significant grounds to register, which outweigh the fact that their future may not be in the UK.

## Other applications under section 3(1)

This section deals with all other applications under [section 3\(1\) of the British Nationality Act 1981](#), which do not fit within the criteria above. In all cases, the application must be considered on its individual merits taking into account the following considerations when deciding whether or not to exercise discretion.

The expectation is that registration should normally only take place where an applicant satisfies the criteria set out elsewhere in this guidance. However, under section 3(1) of the BNA 1981 the Home Secretary has discretion to register a person under the age of 18 at the date of application where they see fit to do so.

In considering whether it is appropriate to register a child on this basis, you must take the following factors into account:

- [the child's future intentions](#)
- the child's parents' circumstances
- residence in the UK
- the [child's immigration status](#)
- any compelling compassionate circumstances raised as part of the application

## Child's future intentions

You must be satisfied that a child's future is clearly seen to lie in the UK before you register them under this provision.

You should normally accept that a child's future lies in the UK where this is stated in their application unless there is information to cast doubt on this, such as:

- the child, or one or both of their parents, has recently left the UK for a period of more than 6 months
- the child is about to leave the UK
- one or both parents are resident abroad

Where you have reason to doubt a child's future lies in the UK you must seek further clarification. If you are still not satisfied that the child's future is in the UK, you should refuse the application.

Where the child is in the UK at the time of application you should normally accept that they meet this expectation if:

- their future intentions are confirmed on the application form
- they meet the [residence criteria](#)
- they have an established home in the UK

Where the child is outside the UK at the time of their application an application for registration should normally be refused unless it meets the criteria set out in this guidance or if either:

- the child is abroad with a parent in Crown service such as the armed forces
- the child had an established home in the UK before going abroad and:
  - they meet the [residence criteria](#)
  - their absence was, or will not be, more than 6 months
  - you are satisfied that the child intends to return to live in the UK no later than 6 months after the date of their departure

## Child's parents' circumstances

To register a child under this provision you should normally be satisfied that one of the parents is either a British citizen or has applied to be registered or naturalised as a British citizen and the application is going to be granted, and either:

- the other parent is settled in the UK
- the other parent is unlikely in the short or medium term to be returnable to their country of origin and there is no other reason to believe that the child's future lies outside the UK

If the child's parents have divorced or separated and the child does not have ongoing contact with the other parent you should be satisfied that either:

- the parent having day-to-day responsibility for the child is, or is about to become a British citizen
- the parent having day-to-day responsibility is settled here but there are strong reasons why registration would be appropriate

It will rarely be right to register a child neither of whose parents is, or is about to become, a British citizen. However, each case must be considered on its individual merits and there may be exceptional circumstances to justify registration in a particular case such as:

- older children (16 and above) who have spent most of their life in the UK or children who require citizenship to follow a particular career such as in the Armed Forces
- the child's future clearly lies in the UK
- the person making the application has day-to-day responsibility for the child's upbringing and is, or is about to become, a British citizen

## Residence in the UK

A child seeking registration as a British citizen under [section 3\(1\) of the British Nationality Act 1981](#) should normally have completed a period of residence in the UK because:



- it is consistent with the majority of other provisions under which a child can be registered
- it enables a child to establish personal connections with this country
- it helps confirm that a child's future clearly lies here

If the child has been in the UK for more than 10 years, you must consider the application in accordance with the [section](#) above.

## Children under 13

The length of residence in the UK is less important where the child is under the age of 13. If you are satisfied that their future lies in the UK and that registration is otherwise appropriate you do not need to take into account the length of residence.

## Children aged 13 or over

A child aged 13 or over should normally have completed at least 2 years' residence in the UK before being registered.

Where a child was aged 16 or over when they arrived in the UK, you should normally refuse an application to register them as they will have had too short a period to establish personal connections with this country at a time when their future plans are unclear. However, each case must be considered on its individual merits and a child in these circumstances may be registered if there are grounds for doing so.

Examples of when it might be appropriate to register a child with less than 2 years' residence include:

- where they have a firm offer of a job in the UK which depends on British citizenship, particularly with HM forces, the police or the Civil Service
- if the child is no more than 2 months short of 2 years' residence at the date of consideration and either:
  - they would still be a minor at the end of the 2 month period
  - they would reach the age of 18 before the end of the 2 month period but were prevented from coming to the UK earlier due to circumstances beyond the family's control
  - there are compelling compassionate reasons for accepting a shorter period of residence or a refusal would cause the child considerable hardship
  - the child would be the only member of the family who would not become a citizen
  - applications have been made on behalf of more than one child and at least one is under 13 - there may be a case for registering the older ones despite less than 2 years' residence in the UK
  - the child's residence is broken but aggregated periods exceed the 2 years

It will not necessarily be appropriate to register everyone who falls into one of the above scenarios, even where they meet the other expectations.

## Child's immigration status

If the child has been in the UK for more than 10 years, you must consider the application in accordance with the [section](#) above. In other cases, we would normally expect the child to have become settled in the UK before applying for British citizenship. This is because a child's future can clearly be seen to lie in the UK if they are not subject to immigration time restrictions. It is also consistent with other routes based on residence in the UK, in which a person is expected to follow a path through settlement to citizenship.

This will normally mean that the child has indefinite leave to remain under the immigration rules.

If the child is not settled in the UK you must consider whether there is compelling evidence to show that:

- the child's future clearly lies in the UK
- the benefit to the child of becoming a British citizen at the current time outweighs the normal expectation that a person becoming a British citizen should be settled here - (a child does not need to be a British citizen to access education or health care in the UK, but there may be other factors that mean it is important for the child to become British now)

Being free from immigration restrictions will be less important where one or both parents are British citizens who have come to the UK to live permanently and:

- the child satisfies the other expectations for registration
- the [parents meet the expectations with regard to their circumstances](#)

If the child is subject to immigration restrictions but otherwise meets the other expectations for registration, you must refer the application to a senior caseworker to make a decision on whether the circumstances outweigh the expectation that the child be free of restrictions.

## Compelling or compassionate circumstances

There may be circumstances where the normal expectations for registration are not met but there are exceptional circumstances which mean that it is appropriate to register a child. You must be satisfied that there are compelling circumstances which mean that registration is in the best interests of a child before you register a child under [section 3\(1\) of the British Nationality Act 1981](#).

You must therefore consider any representations made as part of an application and consider whether these are sufficient to mean that discretion should be exercised in their favour.

An example of this could be where an orphaned child, whose parents were not British is coming to the UK to be cared for by British family members and the safety of the child would be better achieved through a grant of British citizenship, rather than

immigration leave.

## Evidence to be supplied

The evidence to be supplied will depend on the circumstances of the case. Applications should therefore be supported by as much of the following documentary evidence as may be necessary in each case:

- child's birth certificate
- birth certificates of parents or those with [parental responsibility](#)
- marriage certificates of parents or those with parental responsibility
- child's passports or travel documents
- passports or travel documents for parents or those with parental responsibility
- school letters/ reports and employment letters (providing evidence of residence and future intentions where necessary)
- divorce documents
- court orders concerning:
  - wardship
  - guardianship
  - adoption
  - custodianship
  - parental responsibility
- citizenship of parents
- parents' immigration status
- child's immigration status
- child's spouse/ civil partner's citizenship or immigration status
- any other evidence, such as medical reports relied on to establish the exceptionally compelling or compassionate nature of the application

## Section 55 and Article 8 considerations

This section tells you about section 55, [Borders, Citizenship and Immigration Act 2009](#) and Article 8 of the [European Convention on Human Rights](#).

### Section 55

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) places an obligation on the Secretary of State to take account of the need to safeguard and promote the welfare of children when carrying out immigration, asylum and nationality functions.

In practice this requires a consideration to be made of the best interests of a child in casework decisions, including those covered by this guidance, that have an impact on that child. All decisions must demonstrate that children's best interests have been considered as a primary, but not necessarily the only consideration. Whilst in the majority of cases it might be argued that it is in an individual child's best interests to become a British citizen, British nationality law is based on the acquisition of citizenship through a close connection with the UK, including residence, lawful presence and family ties. It is therefore consistent that we adopt similar expectations in

applying the Home Secretary's discretion to register a child. If it is claimed that a child requires British citizenship at the current time, this needs to be weighed against the wider requirements to ensure a fair, consistent and coherent immigration and citizenship policy.

In some cases, it may become clear that the child does not wish to be registered as a British citizen. The [section 55](#) consideration should take account of any views expressed by the child and whether, in the light of those views, it would be right to refuse the application. You must make a judgement on whether the child is of sufficient intelligence and understanding to make an informed decision on this. The older the child is, the more appropriate a refusal is likely to be.

[Section 55](#) does not have to be taken into account once a child has turned 18. This means that where the applicant turns 18 on or before the date of decision you do not need to consider section 55. This may be particularly relevant where an application is made shortly before the 18th birthday.

## Article 8

The European Court of Human rights held in **Genovese v Malta** that the arbitrary denial of citizenship may in certain cases raise an issue under article 8 because of its impact on the private life of an individual. You must ensure that any decision to refuse citizenship is made in accordance with this policy not on arbitrary or discriminatory grounds.

## Character

Children and young people aged 10 and over at the date of application are required to be of good character to be registered [under section 3\(1\) of the British Nationality Act 1981](#).

In considering applications you must take into account the standards of character required for the grant of citizenship to an adult at the Secretary of State's discretion.

## Refusing section 3(1) applications

You must explain the reason why the applicant has failed to meet the normal expectations and why you have decided not to exercise discretion in their favour. Where the applicant or someone acting on their behalf has raised exceptional circumstances you must address these in the refusal letter and explain why, in view of these, it is still not appropriate to exercise discretion.

Where Human Rights are raised as part of the application you must include the following paragraph in your letter:

You have stated that refusal to register you/your client/your child as a British citizen under section 3(1) of the British Nationality Act 1981 will breach your/their human rights under Article XX of the HRA, however as you do not need to hold

British citizenship to remain in the UK I am satisfied that your rights have not been infringed.

Where issues such as qualifying as a 'home student' have been raised you must include the following paragraph:

You have stated that you need to register as a British citizen in order to (insert reason), however there is no requirement to hold British citizenship to do this. As a child, British citizenship does not directly confer any further access than those held by other nationals legally resident in the UK. Given this it is open for you to achieve your stated aims through the Immigration Rules/as a European national and it is not therefore appropriate to exercise discretion on this basis.

#### **Related content**

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# Parental arrangements

## Parental consent

You must normally expect the consent of both parents to a child's registration irrespective of where the child or the parents are living, or whether the child is natural or adopted. Further information can be found in the [consent section](#).

## Applications made by people other than parents

We normally expect applications to be made by one or both parents, or by someone with parental responsibility for the child. You must normally refuse an application made by others on behalf of the child, unless there are special circumstances, which could include:

- the child's parents are deceased and the child is living permanently with the person making the application
- the child's parents have gone abroad long term and the child has been left in permanent care of the person making the application

We would normally expect the applicant to provide evidence of their appointment as guardian by the parents, or by a court, such as a will or residence order and a statutory declaration confirming:

- why they assumed parental responsibility for the child
- when they assumed that parental responsibility
- whether there are any others who have parental responsibility for the child, if so, are they aware of and do they consent to the application

If you have evidence that the application was made in order to avoid refusal because, for example, the parents or, where appropriate, the person or people making the application were not British citizens, then you must normally refuse it.

## Guardianship orders

In the UK a guardian is a person appointed to take over the responsibility for a child's upbringing where nobody has parental responsibility for the child. A guardian may make an application for the registration of a child as a British citizen.

It is important to remember that, in guardianship cases, we should normally expect the usual criteria to be met, including, where appropriate, those relating to the citizenship and immigration status of the parents and their consent to the registration.

A guardian may be appointed by either:

- any parent with parental responsibility
- any guardian

- a court

A guardian may act:

- jointly with a surviving parent
- jointly with another guardian or guardians
- alone

The appointment as guardian needs to be in writing, dated and signed by the person making the appointment. The guardian must supply evidence of his or her right to act as such by, for example, producing a deed, will or court order. You will normally also need the consent of any other guardians or the surviving parent.

If it is for the welfare of the child the High Court may remove a guardian or guardians, whether appointed by a parent or by a court and may appoint a replacement.

Where 2 or more people act as joint guardians and cannot agree on any question affecting the welfare of the child (such as registration as a British citizen), any of them may apply to a court for an order resolving the matter.

If a guardianship order has been made abroad, you must consider what checks should be made (if necessary, with the assistance of the Foreign and Commonwealth Office) on its acceptability.

You must carefully examine applications made by a guardian to ensure that the guardianship is not simply a device to avoid refusal because, for example, the parents are not British citizens, or are resident abroad, or to get around immigration control. If there is evidence that this is the case, you must normally refuse the application.

However, you must normally exercise discretion in the child's favour and register them where:

- the child's parents have died
- at least one of the child's parents was a British citizen
- the guardians are British citizens
- the child meets the residence and other normal expectations

This is to fulfil an undertaking by ministers to Parliament that we would do all we could to relieve hardship in such cases.

## Special guardianship orders

Special guardianship orders were introduced in December 2005. Special guardianship is an alternative legal status for children for whom adoption is not appropriate. It provides greater security than long-term fostering but without the absolute legal severance from birth parents that stems from an adoption order. Special guardians have parental responsibility for the child to the exclusion of all

others with parental responsibility, but they cannot consent to the child being adopted. Special guardianship orders have effect until the child is 18, unless the courts decide to discharge the order. In such cases you must normally expect the usual criteria to be met, including, where appropriate, those relating to the citizenship and immigration status of the parents and their consent to the registration.

## Registration of children by those sharing parental responsibility with the parents

An application for the registration of a child as a British citizen may be made by anyone sharing parental responsibility for a child with the parents. You must seek the consent of all those with parental responsibility.

The following people have parental responsibility for a child in England and Wales:

- the mother
- the father if he was married to the mother
- the father if he was not married to the mother and has either:
  - jointly registered the birth with the mother
  - a parental responsibility order
  - a formal parental responsibility agreement with the mother
  - since married the mother
- a guardian of the child
- someone who holds a custody or residence order
- a local authority which has a care order
- someone who holds an emergency protection order
- someone who has adopted the child

Those sharing parental responsibility with the natural parents do not take the parents' place for the purposes of registration of the child as a British citizen under [section 3\(1\) of the British Nationality Act 1981](#). You must normally therefore expect the usual criteria to be met including, where appropriate, those relating to the citizenship and immigration status of the parents and the parents' consent to registration.

## Parental responsibility orders

Parental responsibility orders were introduced in England and Wales by the [Children Act 1989](#). Someone holding a parental responsibility order may make an application for registration of the child, but you must seek the consent of all those with parental responsibility.

Unlike an adoption order a UK parental responsibility order:

- does not cut a child's legal ties with the natural parents
- does not involve a change of name
- does not confer British citizenship



The courts may bring a parental responsibility order to an end on an application by a person having parental responsibility, or by the child with the leave of the court. Otherwise an order has effect until the child is 18.

## Children in care

An application may be made on behalf of a child who is being looked after by a local authority. If the local authority is providing the child with accommodation, but the child is not in the authority's care, the local authority's consent is not required. If the child is in the local authority's care, the local authority shares parental responsibility for the child with the parents, and consent is therefore required. The following paragraphs apply whenever the local authority shares parental responsibility with the child's parents.

### Application made by the parents

If the normal criteria for registration appear to be met, you must ask the local authority concerned for a report on the background to the case and for its views on the application. If the authority supports the application, we may normally register the child provided that the normal criteria are met. If the authority does not recommend registration, you must not register the child while the care order remains in force.

### Applications made by the local authority

You must ask the local authority for a background report, including details of the parents. If the normal criteria for registration appear to be met, and both parents consent, you must normally register.

If the normal criteria are not met, but the parents' consent, you should consider, in the light of the local authority's report, whether there are exceptionally compelling and compassionate circumstances to justify an exception to our normal practice.

If one or both parents object, you must only register the child if the local authority is satisfied that it is necessary to safeguard or promote the child's welfare.

Sensitive cases concerning children under Local Authority care, must be referred to the Citizenship Vulnerable Persons Team (CVPT). The CVPT has been established particularly to ensure that children in care, and those responsible for their care, do not overlook opportunities for British citizenship.

### Applications made by children themselves

There is nothing in law to prevent children making their own applications. However, in practice, you should normally refuse such an application if you do not have the consent of the parents or the person with legal responsibility for the child. However, if children are 17 or over and have good reason for making the application themselves, you can consider it in the normal way. This may be appropriate, for example, where children have no contact with their natural parents and have been in the care of the local authority, but the care order has now been discharged.

If the child is married or in a civil partnership, and the relationship is recognised as valid in UK law, less weight should be attached to the parental views than would otherwise be the case.

## The child's views

If the application is made on Form MN1, the child may well have signed consent to the application, but this is not normally essential. If it becomes apparent during the consideration of the application that the child does not wish to become a British citizen, you should consider whether it would be right to refuse the application. It is a matter of judgement whether a child is of sufficient intelligence and understanding to make an informed decision on this. The older the child is, the more appropriate a refusal is likely to be.

## The parents' consent

While it is not a legal requirement for applications under [section 3\(1\) of the British Nationality Act 1981](#), it is reasonable that the view of both parents should be considered, as it is consistent with the assumptions which now lie behind much of UK family law. Where there is a conflict between the parents, the courts will put the welfare of the child first. This may be relevant in cases where a parent objects to registration.

On marriage/ civil partnership, children are assumed to have family status on their own account and to have become less a part of their parents' family. In these cases you must give less weight to the parents' circumstances or their views of the child's registration, provided the marriage or civil partnership is valid in UK law.

It is usually a straightforward matter to secure the consent of both parents where the child is legitimate or legally adopted and living with the parents. Difficulty may arise when the marriage has temporarily or permanently broken down, or the child's parents were never married.

Where the parents are legally separated or divorced, it will have been decided who the child should live with. If the parents could not agree on this, a court will normally have granted a child arrangement order or residence order. This will usually be to one parent, but it could be to both, in which case the order will specify the periods the child will spend with each parent. Both parents will retain parental responsibility for the child, and so both should be consulted regarding any major changes in the child's life. You therefore need to take reasonable steps to obtain and consider the views of both parents.

The way in which consent is given may vary according to the circumstances in which the application is made either:

- both parents should have signed the relevant section of the application form
- there should be an accompanying letter of consent from the non-applicant parent

You may also judge that consent has been given if the other parent has good reason for not putting it in writing. For example, if by formally giving consent, the child would lose their existing nationality, but we are nevertheless satisfied from the circumstantial evidence that the other parent is willing for the child to be registered.

Where a court has awarded a residence order or child arrangements order solely to one parent (or other individual), you must request the consent of the other parent (or parents) retaining or having parental responsibility.

Where separation has not been formalised by a court, you must request the consent of both parents, or any other person having parental responsibility.

In England and Wales, the mother will automatically acquire parental responsibility.

The father will acquire it if he:

- is married to the mother
- is named on the birth certificate as the father
- has a parental responsibility agreement with the mother
- has a parental responsibility order granted by a court

In Scotland, the mother will automatically acquire parental responsibility. The father will acquire it if he:

- was married to the mother when the child is conceived or marries her at any point afterwards
- is named on the child's birth certificate (from 4 May 2006)

In Northern Ireland, the mother will automatically acquire parental responsibility. The father will acquire it if he:

- was married to the mother at the time of the child's birth
- is married to the mother after the child's birth (if he lived in Northern Ireland at the time of the marriage)
- is named on the child's birth certificate (from 15 April 2002)

Where we are informed that the father has parental responsibility in one of these ways, or under the equivalent provisions of foreign law, we should seek the father's consent. There is no need to ask the mother to confirm that a parental responsibility order does not exist.

## Steps to be taken to obtain the other parent's views

We should invite the applicant's parent to obtain the consent of the other parent to the child's registration, unless it is clear that the circumstances as set out in the section on [dispensing with other parent's view](#).

If the applicant parent refuses, we should seek agreement to our approaching the other parent, as set out below, asking for that parent's address if we do not have it.

You must abide by data protection requirements. You must not give third parties (other than those we have authority for under the act) any information held on our files or computer systems without the permission of the applicant. This means that in cases covered by this section you cannot write to the other parent or to their solicitor without the express permission of the applicant parent.

You must not draw adverse conclusions from the applicant parent's reluctance to contact the other parent. This could arise from many personal factors unknown to us, including fear.

## Dispensing with the other parent's views

You can normally dispense with the other parent's consent or views where:

- the applicant parent has been given sole custody by a court
- the child's parents were not married, the applicant parent is the mother and we have no reason to believe that the father has parental responsibility (or overseas equivalent)
- the applicant parent or solicitor states that the other parent has abandoned the child (for example there has been no contact for many years)
- the applicant parent or solicitor states that the other parent's whereabouts are not known and he or she cannot reasonably be traced
- despite our efforts the other parent does not respond to our or the applicant parent's letter seeking his or her views

If you decide you do not need to seek the other parent's views this does not mean that you can ignore them if they are given. You must always consider any views offered by the other parent, whatever the circumstances and take full account of them before deciding the application.

If the parent with sole custody of the child is making the application and has re-married, we do not need to obtain the step-parent's consent.

## What to do if the other parent objects to registration

You must consider any objections raised by the other parent on their merits. You must normally refuse registration where the other parent objects and one or more of the following circumstances exist:

- the child's home is in the country of existing nationality which would be lost by registration as a British citizen
- there is evidence that the child has been or is likely to be brought here in contravention of a court order
- there are outstanding court proceedings (whether here or abroad) over custody of the child
- there is reason to believe that registration would not be in the child's best interests

It may, however, be reasonable to override the other parent's views if:

- the child is living in this country with the applicant parent
- registration would normally be considered appropriate

Other reasons for overriding a parent's objections would be:

- they were not well-founded
- they appeared to be motivated by bad feeling between the parents
- the objecting parent appeared not to be acting in the child's best interests

You must take particular care to be satisfied that the evidence supports the genuineness of the relationship between the child and the parents. This is because an application for registration could be made by someone who is not the parent.

Where the relationship is not clearly established you must take careful account of the information on Home Office records or those of parents and other close relatives and must follow up any discrepancy. This may require requesting information from other government departments or local authorities. You must not make a decision until completely satisfied the relationship is genuine.

## Minors who are married or in a civil partnership

Where a person under the age of 18 is married or in a civil partnership, parental consent is not as important. Applications from married minors or those in a civil partnership must normally be supported by the following evidence:

- child's birth certificate
- spouse's or civil partner's birth certificate
- child's marriage or civil partnership certificate
- that the child is settled here (see [checking for possible entitlement to registration](#)) and has been living here for at least 2 years
- if not married or in a civil partnership to a British citizen, that their future lies here

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