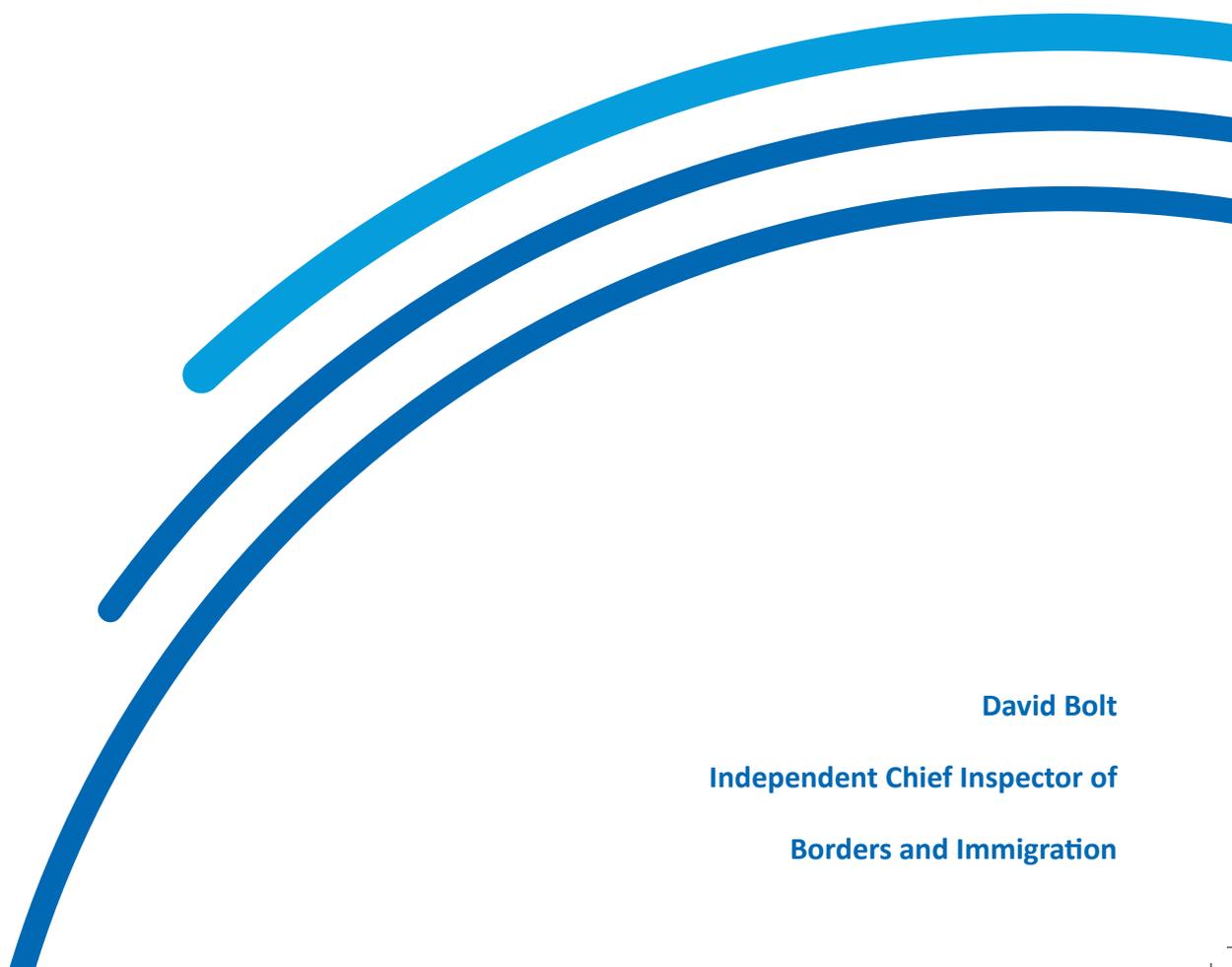




A short inspection of the Home Office's application of the good character requirement in the case of young persons who apply for registration as British citizens

February – April 2017



David Bolt

Independent Chief Inspector of
Borders and Immigration

**A short inspection of the Home Office's
application of the good character requirement
in the case of young persons who apply for
registration as British citizens**

February – April 2017



© Crown copyright 2017

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at

Independent Chief Inspector
of Borders and Immigration,
5th Floor, Globe House,
89 Eccleston Square,
London, SW1V 1PN
United Kingdom

Print ISBN 9781474148030
Web ISBN 9781474148047
ID 10071709 07/17

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

Our purpose

To help improve the efficiency, effectiveness and consistency of the Home Office's border and immigration functions through unfettered, impartial and evidence-based inspection.

All Independent Chief Inspector of Borders and Immigration inspection reports can be found at www.independent.gov.uk/icinspector

Email us: chiefinspector@icinspector.gsi.gov.uk

Write to us: Independent Chief Inspector
of Borders and Immigration,
5th Floor, Globe House,
89 Eccleston Square,
London, SW1V 1PN
United Kingdom



Contents

Foreword	2
1. Scope	3
2. Methodology	4
3. Summary of findings	5
4. Background and findings	7
Appendix A: Home Office Guidance: Chapter 9, Annex B of the Nationality Instructions in force from 2008 to 2012	16
Appendix B: Role and remit of the Chief Inspector	17

Foreword

British citizens enjoy important rights, including the right to live, work and study in the United Kingdom, to apply for a British passport, and to access state benefits and services.

The British Nationality Act 1981 ('the Act') makes provision for children (those under the age of 18) who do not automatically acquire British citizenship at birth to apply for registration as British citizens. Applicants meeting certain conditions are legally entitled to registration, others may be granted registration at the Home Secretary's discretion.

In the latter case, applications from young persons (defined in the Act as "a person who has attained the age of 10 years at the time when the application is made") "must not be granted unless the Secretary of State is satisfied that" the "young person is of good character." Adults (those over 18) apply for naturalisation rather than registration, but the same legislation applies in relation to good character.

This inspection looked at how the Home Office interprets "good character" in the case of young persons applying for registration as British citizens. In particular, it looked at whether the guidance made available to caseworkers was appropriate.

The inspection found that Home Office policy had tightened in relation to the good character requirement since December 2012, so that young persons were now subject to the same guidance as adults. In part, this was in response to a recommendation from the Inspectorate's 2014 Nationality Casework inspection. However, the unintended consequence of the latter was that lengthy bans from applying for citizenship imposed on anyone found to be not of good character prevented some young persons from applying and being considered while still a minor.

The report makes two recommendations, both related to a further review of the guidance. It was sent to the Home Secretary on 10 May 2017.

1. Scope

- 1.1 This short inspection examined the application by the Home Office of the 'good character' requirement to 'young persons' (those aged between 10 and 17) applying to register as British citizens under the British Nationality Act 1981 at the Home Secretary's discretion. In particular, it looked at the guidance made available to caseworkers in relation to criminal convictions and immigration-related offences or breaches of Home Office immigration controls.
- 1.2 In the time and with the resources available, this inspection was unable to look at the other eligibility criteria that minor applicants are required to meet when applying, or at other concerns raised by stakeholders. The Inspectorate may return separately to the latter, which included the fee charged for registration applications, the lack of specific reasons given in refusal decisions, the cost and effectiveness of internal review requests, and the process of issuing British passports to successful applicants.

2. Methodology

2.1 The inspection involved:

- a meeting with legal representatives working with the Project for the Registration of Children as British Citizens (PRCBC)
- examination of documentary evidence, including Home Office guidance and instructions to staff
- a familiarisation visit to the Home Office Nationality Group¹ in Liverpool, including two focus groups with staff and a meeting with the Senior Management Team (SMT)
- a meeting with the Home Office's Children's Champion
- a meeting with the Immigration Law Practitioners' Association's Legal Director

¹ Part of UK Visas and Immigration Directorate.

3. Summary of findings

- 3.1 The inspection found that over the period 2014 to 2016, around 95% of applications from minors for registration as British citizens were granted. Over the same period, failure to satisfy the good character requirement was recorded by the Home Office as the primary reason for refusal in 133 cases (2.55% of all refusals).
- 3.2 ‘Good character’ is not defined in the British Nationality Act 1981. Relevant Home Office guidance has become tighter over time, removing any caseworker discretion where applicants had a single, minor conviction, such as a caution.
- 3.3 Between 2008 and 2014, Home Office guidance in relation to applications from minors had an Annex devoted to the good character requirement (Chapter 9, Annex B of the Nationality Instructions for caseworkers).²
- 3.4 Since January 2015, guidance on good character is found only at Annex D of Chapter 18, which deals with the naturalisation of adults at discretion. Current guidance (last updated in February 2015) states “Children and young people³ over the age of 10 are required to be of good character to be registered under section 3(1). In considering applications we should take into account the standards of character required for the grant of citizenship to an adult at the Secretary of State’s discretion.”
- 3.5 The 2014 ICIBI ‘Inspection of Nationality Casework’⁴ recommended the strengthening of the guidance on good character in respect of immigration-related issues. Current guidance imposes a 10-year restriction on granting applications from an adult or young person found to have committed certain immigration offences or breaches (although Nationality Group will normally disregard this in the case of a dependant minor if outside the latter’s control).
- 3.6 In applying the same good character guidance, without qualification, to young persons (those aged 10 to 17) and to adults, it is unclear how the Home Office is meeting its statutory responsibilities in relation to safeguarding and promoting the welfare of children or to making the ‘best interests’ of the child a primary consideration.

² See Appendix A.

³ The Home Office formulation ‘children and young people’ does not accurately reflect the British Nationality Act 1981, which refers to ‘young persons’, defined as those aged 10-17. The Home Office advised that the use of ‘children and young people’ was not intended to imply that children under the age of 10 were subject to the good requirement.

⁴ <http://icinspector.independent.gov.uk/wp-content/uploads/2014/12/Nationality-Report-web.pdf>

Recommendations

The Home Office should:

1. Review current guidance in relation to applications for registration as British citizens from young persons (those aged 10 to 17 years) and ensure that it accurately reflects the Home Secretary's policy intention, in particular in not differentiating between young persons and adults when assessing criminal convictions and immigration offences and breaches of controls in relation to the good character requirement.
2. Produce guidance about the good character requirement in the case of young persons (those aged 10 to 17 years) applying for registration as British citizens that makes explicit the scope for caseworkers to exercise discretion, and ensures compliance with the Home Office's statutory responsibilities in relation to safeguarding and to making the best interests of the child a primary consideration.

4. Background and Findings

‘Good character’

- 4.1 The British Nationality Act 1981 (‘the Act’) states that an application for registration (or naturalisation in the case of applicants over the age of 18) as a British citizen “must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.”
- 4.2 The Act defines an “adult or young person” as “a person who has attained the age of 10 years at the time when the application is made”. This aligns with the age of criminal responsibility in England, Wales and Northern Ireland.⁵
- 4.3 The Act does not define good character and provides no statutory guidance regarding how this should be interpreted or applied. However, Home Office guidance⁶ states: “To be of good character a person should show respect for the rights and freedoms of the United Kingdom, observe its laws and fulfil their rights and duties as a resident of the United Kingdom.”
- 4.4 The guidance makes specific reference to genocide, crimes against humanity, war crimes, terrorist activities, and deception in dealings with UK government departments. However, the two areas of most relevance to young persons are criminal convictions and immigration-related issues.

Evolution of Home Office guidance

- 4.5 From 1 January 2008, when considering spent criminal convictions in relation to good character assessments, the Home Office applied the periods set out in the Rehabilitation of Offenders Act 1974. This was reflected in Nationality Policy Notice 12/07,⁷ and in Chapter 9, Annex B of the Nationality Instructions for caseworkers. The Rehabilitation of Offenders Act 1974 allowed for periods to be halved for anyone under the age of 18 at the time of conviction (see Figure 1 below, which is an extract and does not include all sentences covered by the Act).

Figure 1: Rehabilitation periods prescribed by the Rehabilitation of Offenders Act 1974 (as amended) or Rehabilitation of Offenders (N. Ireland) Order 1978

Sentence	Rehabilitation period
Imprisonment or custody for life	Excluded from rehabilitation
Imprisonment or detention in a young offender institution for over 30 months	

⁵ The age of criminal responsibility in Scotland is 8 years, although the Scottish government is committed to raise it to 12 years by 2018.

⁶ ‘GUIDE MN1 Registration as a British citizen– A guide about the registration of children under 18’, dated January 2017

⁷ <http://webarchive.nationalarchives.gov.uk/20081230103221/http://www.ukba.homeoffice.gov.uk/britishcitizenship/eligibility/goodcharacter/>

Imprisonment or detention in a young offender institution of over 6 months but not exceeding 30 months (2½ years)	10 years (or 5 years if under 18 at the time of conviction)
Imprisonment or detention in a young offender institution for up to 6 months	7 years (or 3½ years if under 18 at the time of conviction)
A community sentence or equivalent	5 years (or 2½ years if under 18 at the time of conviction)
Fines	5 years (or 2½ years if under 18 at the time of conviction)
Binding over order	1 year or the period of the order, whichever is longer
Supervision order	
Conditional caution	Three months
Any other sentence that does not have a specified rehabilitation period within the Rehabilitation of Offenders Act	Five years (or 2½ years if under 18 at the time of conviction)

- 4.6 Home Office guidance in force at the time further explained that it would “...normally be prepared to overlook a single unspent conviction resulting in a bind-over, conditional discharge or relatively small fine or compensation order where the applicant is of good character in all other respects”.⁸
- 4.7 An update on 16 September 2009⁹ included further detail about what was considered to be a minor conviction.
- 4.8 The guidance was amended again in December 2012, bringing cautions¹⁰ within its scope. The amended guidance stated:

“As a caution forms part of a person’s criminal record, when determining whether an applicant meets the “good character” requirement, caseworkers must take them into account. Where the application was made on or after 13 December 2012 a caution comes within the “non-custodial offence” threshold. As such, where someone has a caution within 3 years of their application, it should be refused.”

- 4.9 At the time, the Home Office Policy Team provided additional advice to the Nationality Group:

“Where the application is made after 12/12/12 I don’t think there is scope to ignore a single caution that was acquired in the last three years. However, where we have an undecided application made before the Rules change we can discount a single, non-custodial sentence or penalty more than 3 years ago in line with the interim instruction. You are right in that it is a significant change for post 12/12/12 nationality applications. It’s consistent with the new approach in settlement cases and we would be in a worse position if we took a more lenient attitude to cautions for nationality. For what it’s worth I did

⁸ <http://webarchive.nationalarchives.gov.uk/20080806121433/http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/nationalityinstructions/nichapter18/ch18annexd?view=Binary>

⁹ <http://webarchive.nationalarchives.gov.uk/20091216222436/http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/nationalityinstructions/nichapter18/ch18annexd?view=Binary>

¹⁰ A caution is a formal warning given by the police as an alternative to prosecution to anyone aged 10 years or over who admits that they have committed a minor criminal offence. There are ‘simple cautions’ and ‘conditional cautions’, the latter involving specific conditions that the offender must meet. There are also ‘youth cautions’ for anyone between the ages of 10 and 17, who has no previous convictions.

check the point with Criminality Policy and they stuck to the line that a caution acquired in the last three years means refusal.”

2014 Inspection of Nationality Casework

- 4.10 Nationality Casework was last inspected in 2014. The Independent Chief Inspector reported that he was “particularly concerned that caseworkers were not sufficiently looking for, or taking account of, evidence of character in order to satisfy themselves that the requirements of the British Nationality Act 1981 had been met. This resulted in British citizenship being granted to applicants with very poor immigration histories”.
- 4.11 Inspectors had identified “serious breaches of immigration law and other poor immigration history, involving significant parts of the qualifying period”. They noted that guidance “allowed caseworkers to disregard evasion of immigration control during the qualifying period, where there was no other evidence to cast doubt on an applicant’s good character”, but it appeared that a “blanket approach” was being taken to immigration breaches rather than deciding on a case by case basis whether an applicant met the good character requirement.
- 4.12 The Inspectorate accepted that “there is a judgement to be made when interpreting the good character requirement”, but argued that “it was wrong to disregard a poor history of evading immigration control ... when this occurred within the qualifying period”. The report recommended that the Home Office should:

[ensure that] “good character checks are always undertaken in cases involving evasion of immigration control, to ensure that there is no other evidence to cast doubt on an applicant’s character or standing in the community”.

- 4.13 Home Office guidance was revised to reflect this recommendation.

Current guidance

- 4.14 Current guidance¹¹ is contained in two chapters of UK Visas and Immigration nationality instructions: Chapter 9: registering minors at discretion (nationality instructions), last updated 6 April 2015, and Chapter 18: naturalisation at discretion (nationality instructions), dated 13 July 2015, Annex D of which is devoted to “the good character requirement”.
- 4.15 Until December 2014, Chapter 9 had its own Annex on the good character requirement. Now, under the heading ‘The Law’, the introduction to Chapter 9 cross-references Annex D: “Persons may be registered if”... ‘(if aged 10 or over on the date of application, this being a date on or after 4 December 2006) the Secretary of State is satisfied that they are of good character (see Annex D to Chapter 18)’. There is no guidance on good character within Chapter 9 itself.
- 4.16 The introduction to Chapter 9 does however state:

“IT IS IMPORTANT TO REMEMBER that the guidance in this Chapter does not amount to hard and fast rules. It will enable the majority of cases to be dealt with, but because the law gives complete discretion each case must be considered on its merits. All the relevant factors must be taken into account, together with any representations made to us. If we do not, we are open to criticism for not exercising our discretion reasonably.

¹¹ <https://www.gov.uk/topic/immigration-operational-guidance/nationality-instructions>

It is therefore possible to register a minor under circumstances that would normally lead to the refusal of an application or to refuse when normally a child might be registered if this is justified in the particular circumstances of any case.”

- 4.17 The introduction to Chapter 18 states that it “applies to all decisions taken on or after 11 December 2014” where the decision is subject to the Home Secretary’s discretion. It goes on to state that it applies “to anybody over the age of ten who applies for naturalisation or registration as a British citizen”. There are no references to ‘young persons’ within the body of Chapter 18, and no suggestion in either Chapter 9 or Chapter 18 that good character assessments for minors aged 10-17 might involve different considerations from those for adults.
- 4.18 The purpose of Annex D is given as “to explain how the good character requirement is assessed”. It informs the decision maker that a person will not normally be considered of good character if there is information to suggest “they have not respected and/or are not prepared to abide by the law. For example they have been convicted of a crime ...”.
- 4.19 At the end of Annex D, Annex D 2(i) is a table with the rehabilitation periods prescribed by the Rehabilitation of Offenders Act 1974 (as amended) that shows the periods halved for certain sentences “if under 18 at the time of conviction” – see Figure 1. However, at Section 2, within the body of the Annex, there is the following table.

Figure 2: Table of How Convictions & Sentences Affect Applications

Sentence	Impact
4 years’ or more imprisonment	Application will normally be refused, regardless of when the conviction occurred.
Between 12 months’ and 4 years’ imprisonment	Application will normally be refused unless 15 years have passed since the end of the sentence
Up to 12 months’ imprisonment	Applications will normally be refused unless 10 years have passed since the end of the sentence
A non-custodial sentence or other out of court disposal that is recorded on a person’s criminal record	Applications will normally be refused if the conviction occurred in the last 3 years

- 4.20 In line with the recommendation from the 2014 ‘An Inspection of Nationality Casework’, the guidance was amended to strengthen the approach to breaches of immigration controls. Annex D, Section 9 covers “Immigration related issues”. The headings of most relevance to applicants under the age of 18 are “Illegal Entry” and “Evasion of immigration control”. These state:

“Illegal Entry

In circumstances where an applicant entered the UK illegally, an application for citizenship should normally be refused for a period of 10 years from the date of entry, if it is known. If it is not known, the period of 10 years starts from the date on which the person first brought themselves to or came to the attention of the Home Office.”

“Evasion of immigration control

The decision maker will normally refuse an application if within the 10 years preceding the application the person has not been compliant with immigration requirements, including but not limited to having:

- a. failed to report
- b. failed to comply with any conditions imposed under the Immigration Acts
- c. been detected working in the UK without permission.”

Caseworker feedback

- 4.21 Home Office Nationality Group is responsible for processing applications for registration as a British citizen (or for naturalisation in the case of adult applicants). Caseworkers are based in Liverpool, where there are five caseworking teams working to one Senior Executive Officer (SEO). Five other SEOs within the Nationality Group have various thematic or functional responsibilities. The entire Group consists of 324.9 FTE, working through a Grade 7 and Grade 6 to a Senior Civil Servant.
- 4.22 In focus groups, caseworkers responsible for making decisions about citizenship applications from both adults and minors told the inspector that they understood the current guidance and applied it.
- 4.23 Chapter 9.1.6-7 states: “... the guidance in this Chapter does not amount to hard and fast rules..... each case must be considered on its merits. All the relevant factors must be taken into account, together with any representations.... It is therefore possible to register a minor under circumstances that would normally lead to the refusal of an application or to refuse when normally a child might be registered if this is justified in the particular circumstances of any case.....”. Annex D provides the ability to exercise discretion in exceptional circumstances, although decision makers cannot overlook convictions without referral to the Chief Caseworker. There were few examples of the exercise of discretion.

Outcomes

- 4.24 The Home Office provided annual statistics for the outcomes for applications for registration as a British citizen for the period 2014 to 2016 (Figure 3). The statistics included refusals where good character was recorded as the primary reason for refusal. Nationality Group records only the primary reason, but managers told the inspector that good character was rarely cited as a secondary reason for refusal.

Figure 3: Refusal of applications for British citizenship on good character grounds¹²				
		2014	2015	2016
Applications		35,335	39,460	37,519
Grants of citizenship		33,274	36,638	33,851
Refusals		1,598	2,008	1,611
Refusals citing good character as the primary ground		55	39	39
Numbers by age at date of application	Age			
	9	1	0	0
	12	1	0	1
	13	1	0	2
	14	4	3	1
	15	7	7	4
	16	10	6	7
	17	31	23	24
Good character refusals as % of all refusals		3.40%	1.90%	2.40%
Good character refusals as % of all applications		0.16%	0.14%	0.15%
Refusals overturned after formal reconsideration request		5	0	0

4.25 At the time of the inspection, 10 applicants who had been refused between 2014 and 2016, reapplied for registration or naturalisation. Nine of the 10 were originally refused on the basis of an ‘unspent’ conviction, and reapplied after it was spent: eight were granted, and one was still under consideration at the time of this inspection. The tenth was initially refused because he had failed to disclose an impending prosecution. When he reapplied, he failed to disclose a further impending prosecution for a new offence, and was refused again.

Stakeholder concerns regarding the good character requirement

4.26 In February 2017, inspectors met a group of legal representatives working with the Project for the Registration of Children as British Citizens (PRCBC). The group raised a number of concerns about Home Office policy and practice, in particular the approach to the good character requirement in the case of minor applicants aged 10 and over.

¹² This table contains internal management information provided by the Home Office. It has not been quality assured to the level of published National Statistics so should be treated as provisional and therefore subject to change.

- 4.27 As well as arranging legal support for minors who had been refused citizenship, PRCBC had made a number of representations to the Home Office challenging the legality of its approach. PRCBC's concerns included the Home Office's use of the same good character test for young persons and adults, and the failure of caseworkers to exercise discretion in the case of the former.
- 4.28 As part of the inspection, the inspector met the Immigration Law Practitioners' Association's Legal Director. Along with PRCBC, she cited two High Court judgements that were directly relevant to these concerns:

R (Hiri) v SSHD [2014] EWHC 254 (Admin)¹³

The High Court held that in applying the good character test, the Secretary of State for the Home Department (SSHD) must consider all aspects of the applicant's character. It is not enough for her to focus on one aspect of the person's character, and the presence or absence of a criminal conviction is not in itself determinative of character.

(SA) v SSHD [2015] EWHC 1611 (Admin)¹⁴

The judge found that the SSHD had unduly fettered her discretion by rigidly adhering to the policy in the Nationality Instructions. She found that the only matter taken into account as relevant to the exercise of the SSHD's discretion was the conviction, and that the SSHD had failed to consider any mitigating features of the claimant's case, including his difficult background, and his age at the date of conviction.

- 4.29 Stakeholders were concerned that the Home Office guidance did not consider the impact of the good character requirement on minors, including where eligibility to apply for registration as a British citizen might expire during the period the Home Office counted a spent criminal conviction as grounds for a good character refusal. They were also concerned about the 10 year ban for immigration related offences or control breaches being applied to minors.
- 4.30 PRCBC raised other concerns that, for reasons of time and resources, were not examined in this short inspection. These included the fee charged for registration applications (raised from £936 to £973 in April 2017), which had increased substantially since originally introduced and, in PRCBC's view, appeared to exceed "full cost recovery". The current fee was difficult for some minor applicants to find.
- 4.31 Moreover, if the application was refused the fee was not returned, and unsuccessful applicants had to pay a further £272 (without recourse to legal aid) to submit a request for internal review, often without having been given the specific reasons why their application was refused. Where the internal review process failed, the only remedy was to issue proceedings in the high court, at considerable expense.
- 4.32 PRCBC also raised a number of concerns regarding the issue of British passports to children. In the context of those children who apply successfully for registration as British citizens, the specific concern was that Her Majesty's Passport Office (HMPO) may re-examine and undermine decisions made by UK Visas and Immigration Directorate because of a failure to link up the two Home Office processes effectively.

¹³ https://www.gardencourtchambers.co.uk/wp-content/uploads/old_site/File/R%20v%20SSHD%20Approved%20Judgment%20-%20Tuesday%2018th%20February.pdf

¹⁴ <https://www.gherson.com/blog/high-court-quashes-home-office-refusal-of-nationality-application-because-of-minor-criminal-offence-committed-when-applicant-was-17>

“Best interests” of the child

- 4.33 Article 3(1) of the ‘UN Convention on the Rights of the Child’ (1989) states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” Similar wording is used in Article 24 of the ‘European Charter of Fundamental Rights’.
- 4.34 Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Home Secretary to ensure that her functions [in relation to borders, citizenship and immigration] “are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom”.
- 4.35 While there are references to “compassionate circumstances”, for example where a child with a learning disability would ‘suffer hardship’ by being refused registration as a British citizen, Chapter 9 of UKVI’s nationality instructions refers explicitly to the “best interests” of the child only in the context of parental consent.
- 4.36 The guidance states that the child’s best interests may be grounds for accepting an objection to the registration of their child as a British citizen by one or other parent. They may also be the basis for overriding a parental objection “if registration would appear to be in the child’s best interests (e.g. by giving security or bringing the child in line with brothers or sisters)” or if “the objecting parent appeared not to be acting in the child’s best interest”.
- 4.37 The guidance is silent on any link between the requirement to consider the child’s best interests and the good character requirement.
- 4.38 As part of the inspection, the inspector met the Home Office Children’s Champion. She explained that her role was to offer advice to decision makers on the implications for the welfare of the child of decisions they may be considering in a particular case. However, the decision rested with the decision maker, who also took account of other factors relevant to the case.

Conclusion

- 4.39 Since December 2012, Home Office policy has tightened in relation to the good character requirement, so that at the time of the inspection a young person (aged 10 to 17) was subject to the same guidance as an adult, with spent criminal convictions attracting the same periods during which any application for British citizenship “will normally” be refused.
- 4.40 The 2014 inspection of Nationality Casework focused on adult applicants for British citizenship. The recommendation that an applicant’s immigration history should be taken into account when assessing their good character led to the guidance being strengthened in respect of “Immigration related issues”. However, because there is now a single set of good character guidance covering adults and young persons which carries a 10 year restriction for certain immigration offences and control breaches, the latter are effectively prevented from making a citizenship application while still a minor. This was not the intention of the recommendation.
- 4.41 These, and other concerns voiced by stakeholders but not examined in this inspection, argue for a further review of Home Office guidance in relation to applications from young persons (aged 10 to 17 years) for registration as British citizens. That review should, as a minimum, clarify the good character requirement for young persons, differentiating this from the requirement for adults by creating bespoke Annexes for the relevant chapters of the Nationality Instructions,

which in the case of Chapter 9: registering minors at discretion (nationality instructions) makes appropriate reference to safeguarding, welfare and the child's best interests.

Appendix A: Home Office Guidance: Chapter 9, Annex B of the Nationality Instructions in force from 2008 to 2012

Chapter 9 annex B

Caseworking procedures

1. Enquiries

1.1 Where the police are asked to make enquiries into a parent's application for citizenship, they should also be asked to make enquiries into the suitability for registration of a minor included in the application or for whom a separate application has also been made on Form MN1.

1.2 The scope of enquiries in other cases will vary according to the age of the minor at the time when the application is considered and will normally be as follows:

Up to and including 12 years: No separate enquiries

Age 13 to 15 inclusive: Normally no separate enquiries but the police may be asked to carry out enquiries if there is evidence to suggest that the application may not be well founded

Age 16 and 17: Normally only a PNC check where the applicant is or has been resident in the UK. The police may be asked to carry out enquiries if there is evidence to suggest that the minor's behaviour is such that registration could bring citizenship into disrepute.

1.3 When applicants are resident abroad the post would normally state whether anything adverse is known about the applicant. If this information is not given we should ask the post only for confirmation that nothing adverse is already known to them. Posts should not be asked to make checks with local police records etc.

2. Restricted – not available for disclosure

3. Procedure for obtaining an interview

3.1 Restricted – not available for disclosure

3.2 All files being sent to the Despatch Section for onward transmission to a provincial police force, the Metropolitan Police or, exceptionally, the Immigration Service, should be marked on the computer with the notation DESP before they leave the CMU. Reference to the Police and Constabulary Almanac will show whether a particular address is in the Metropolitan police district. (Files being sent to the Immigration Service at their request for reasons unassociated with a citizenship application may be sent direct by CMUs).

3.3 Despatch Section will note its records and will then forward the file to the appropriate quarter. Files for the Metropolitan Police or the Immigration Service will normally travel by IDS. Files for other police forces will normally be sent by recorded delivery post.

3.4 When sending files out, Despatch Section will update the file movements record for the files in question. Files going to police forces will have the notation POL followed by a number indicating which police force is involved. The codes are listed in Annex H(i) to Chapter 18.

Appendix B: Role and remit of the Chief Inspector

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

The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions. However, functions exercised at removal centres, short-term holding facilities and under escort arrangements are excepted insofar as these are subject to inspection by Her Majesty's Chief Inspector of Prisons or Her Majesty's Inspectors of Constabulary (and equivalents in Scotland and Northern Ireland).

The legislation directs the Independent Chief Inspector to consider and make recommendations about, in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on section 19D of the Race Relations Act 1976 (c. 74) (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

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

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within eight weeks of receipt, subject to both Houses of Parliament being in session. Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

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

