



Home Office

# Nationality policy: full capacity requirement

Version 1.0

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# About this guidance

This guidance tells Home Office staff about the requirement for certain purposes of British nationality law, including naturalisation, that applicants are of 'full capacity'.

## 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 **1.0**
- published for Home Office staff on **14 July 2017**

## Changes from last version of this guidance

This guidance replaces annex A to chapter 18 of the Nationality directorate instructions.

### Related content

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# The full capacity requirement

Full capacity is defined in [section 50\(11\) of the British Nationality Act 1981](#) as being “not of unsound mind”. It is not further defined in the act, but you can consider the requirement as having been satisfied if the standard set out in this guidance is met.

To meet the requirement applicants must be able to understand the purpose of their application. You must not expect a total understanding of either:

- nationality
- citizenship
- knowledge of procedures
- the statutory provisions

Applicants must be of sufficiently sound mind to know that they want to acquire, or in some cases ‘renounce’ British nationality even if they require advice or assistance from others in making this decision. Before granting an application you must have no reason to doubt that they have a sufficient level of understanding.

The full capacity requirement is not intended to deny British nationality to, or prevent ‘renunciation’ of British nationality, by people whose disability makes it difficult for them to communicate.

## Waiving the requirement to be of full capacity

Under [section 44A of the British Nationality Act 1981](#) as inserted by [section 49 of the Immigration, Asylum and Nationality Act 2006](#) the Secretary of State has discretion to waive the requirement to be of full capacity, if they think it is in the best interests of the applicant to do so.

## Consideration of applications

Most applicants have no difficulty in meeting the full capacity requirement. You must assume that the applicant meets the requirements unless there is information provided to cast doubt.

Such information could include a report from a referee or doctor stating that the applicant has a physical or mental condition that prevents them from meeting the full capacity requirement. In such a case, referee enquiries may be appropriate to establish the position.

Alternatively a letter to the applicant’s agent, guardian or to the applicant themselves may help to establish enough information to make a decision. Where applicants have lodged their own applications, the presumption is that they meet the full capacity requirements unless there is substantial evidence to the contrary.

If it appears that the applicant may have a mental or physical illness and is receiving treatment you must give applicants, their guardian or their agent the option of submitting a report from their doctor or a medical professional. You must explain both the full capacity requirement and our interpretation of it, and request as much information as possible to help us reach a decision on the application.

In exceptional cases there may be conflicting professional opinions about an applicant's mental capacity. In such cases you normally give the applicant the benefit of the doubt.

In cases where the applicant cannot be considered of full capacity you must consider whether it would be in their best interests to waive the requirement. It will normally be appropriate to take account of the:

- views of the applicant, to the extent that they are able to express them
- views of any person, professional or otherwise who has assumed responsibility for the applicant's welfare
- citizenship status of other family members, especially those with who the applicant resides or is in regular contact

The decision on whether or not to waive the full capacity requirement must be taken by a senior caseworker.

## Oath and pledge

For all successful adult applicants for British nationality the oath and pledge will normally be administered at a citizenship ceremony. If the person administering the oath and pledge, in most cases the Superintendent Registrar or their deputy, is not satisfied that the applicant understands the significance of what is happening they should contact the Citizenship Ceremonies Support Team (CCST). CCST will advise that if any concerns cannot be satisfied prior to the ceremony taking place, it should be postponed until the matter is resolved.

Where the requirement to be of 'full capacity' has already been waived you will normally also waive the requirements to make the oath and pledge at the citizenship ceremony. However where there is a desire for the applicant to attend a citizenship ceremony as part of a family group of applicants, it should be possible to accommodate the request. Such requests will be dealt with by CCST following discussion with the relevant local authority.

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