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Introduction

The Family Law Reform Act, which came into force on 1 January 1970, defines a child as a person who has not yet reached the age of 18 years. In addition the British Nationality Act 1981 contains, for its own purposes, a definition of a minor as 'a person who has not attained the age of 18 years'.

Newborn babies and children up to the age of 16 years of age who are not included on a valid 10-year passport issued before 5 October 1998 are required to hold their own passport if they are to travel abroad.

Children already included on an existing passport may continue to travel with the passport holder (provided this is acceptable to the destination country) until one of the following events occur:

- The child reaches the age of 16 years
- The passport on which the child is included expires
- The passport on which the child is included is submitted for amendment. It has not been possible for children to be re-added to passports submitted for amendment since 5 October 1998.
- The child has their own passport

It should not be assumed that where a child has been added without any observation to a passport that the child's national status has been established by documentary evidence other than that needed to establish the parent/child relationship. It will be necessary to request full supporting documents when an application is received for a child who has been previously included in a passport.

Since 26 March 1998, passports issued to children under the age of 16 years are valid for 5 years and may not be extended. Five-year passports issued before this date are extended free of charge. Passports issued to young

persons aged 16 and 17 years are valid for 10 years. The fees for a new passport and renewal of a passport are prescribed by the Consular Fees Order.

Following new regulations for entry into the United States, which came into effect from the 26 October 2005, children included on their parents' passports who intend to travel to the USA, will need to obtain a visa. Alternatively, they will need their own passport.

Passport applications that are received for children generally fall into the following categories

- Consent given by a parent
- Consent given by an adult who has been given care through the Courts
- Consent given by a local authority where the child is in their care
- Consent given by an adult who is caring for a child in the absence of anyone with parental responsibility or any Court involvement.

Consent is needed for children's' passport applications until they become 16.

Consent is needed for children's passport applications until they become 16. From 10 December 2007 following ministerial approval, applications received from young people 16 and 17 years old do not need parental consent (with one exception). If it is clear from the information provided that the 16 or 17 year old has a mental disability and will be unable to understand the consequences of signing the declaration at section 9, we will also need consent from someone with parental responsibility - for example when the application has been completed on their behalf and the accompanying letter confirms that that the child is unable to make the application because of a mental disability.

Passport applications for children may be received by post or through the counter. On receipt they will be streamed depending upon their type, first time, renewal, extension amendment in the case of postal work. Streaming may differ slightly on the counter depending on the service level.

In the majority of cases passport applications for children are straightforward and can be dealt with by any examiner depending upon the type and the complexity of the application.

Completing and examining the application form

First Time Applications (FTAs)

A cross must be placed in the box marked 'Your First Passport Child (under 16)' in section one.

Section two must be completed with the child's details, including any previous name of the child.

Section three asks for details of any previous passport. This includes any previous passport that the child may have been included on. The passport must accompany the application so that it may be cancelled, or if the child is included, the child's details deleted unless the passport is not British.

i The Identity and Passport Service (IPS) stopped including passports of children in relatives' British passports after 5 October 1998. It can be accepted that the child will not have been included on any passport if born in the United Kingdom after this date. However, the child may well have held a passport. The system will automatically search for a matching record and provide a warning if there is already a passport on the system in the same identity. Examiners must ensure that they check the system in the name as shown on the birth certificate as well as that shown on the application form if the two differ.

ii When section three is left blank or ticked yes and no passport is submitted, Steria will write to the applicant asking for the previous passport. Where it is clear from the reply that the child does not have a passport, or is not included on one, the letter must be scanned. If it is still not clear whether the child has their own passport or not, a letter must be sent to obtain further details, and to ensure that the one policy per person policy is upheld. Please see one passport per person policy.

iii If the child was born overseas, the child must have entered the United Kingdom on a travel document. Enquiries need to be made to establish how the child came to the UK where it is unclear. Where it is clear that the only passport on which the child is included is expired, the passport need not be requested. Also, where it is clear that the only passport is one issued by a foreign authority the passport need not be requested. The examiner may of course request the passport if there is doubt over the whereabouts of the child or some other cause for concern, (such as identity or nationality) and the passport may help resolve the issue. In each case the application should be case noted to explain the examiner's decision.

New application forms have been introduced that require section four to be completed for all children irrespective of how they acquired their British nationality, or where they were born. If the father's details are unknown, this may of course be left off. Where the parents were also born after 31.12.82, the applicant will need to provide details of the child's grandparents at section 8 or on a separate sheet of paper, so that nationality can be determined correctly. Section 4 is needed not only to aid examiners to determine nationality but also to aid an examiner confirm that the person who gave consent has parental responsibility. Provided the information and documents submitted is enough to establish nationality and parental responsibility by the person who gave consent at section 9, there will be no need write out if some information is missing. Older application forms that do not request this information may continue to be accepted.

Section five must be completed when the child has gained their British nationality through registration.

If the child is aged 12-15, they must sign and date section 6 unless are unable to sign because of a physical or mental disability. In these circumstances the passport will be issued with an observation 'The holder is not required to sign'. (See unable to sign policy).

From 10 December 2007, Section 7 is no longer required. This section will remain on the application form until the forms have been fully updated. Applications received for young people of 16 and 17 where this section has been left blank or partially completed and applications where a person with parental responsibility has completed and signed this section of the application form may be accepted. The IPS website has not yet been updated, so applicants applying through the electronic route will be asked to provide parental consent if they are aged 16 or 17 years. The IPS website will be updated as quickly as possible. Examiners should accept an electronic application for a 16 or 17 year old with or without the consent.

Exceptions to this rule are those applicants who are aged 16 or 17 years of age and the Examiner is made aware that they are still subject to a residence or care order. It is not the normal practice of the Courts to issue orders in respect of those aged 16 years or over. If the Examiner is aware of such an order parental consent must be obtained before we issue a passport. Also an exception is those aged 16 or 17 years who are not capable of making such a decision for themselves. The Examiner will not be aware of such applicants unless the application is supported by a letter from a parent or carer. We will require parental consent if the application has been supported by someone other than the parent. In these circumstances the passport will be issued with an observation 'The holder is not required to sign'.

Section 8 provides a space for the applicant to give any other information that may be relevant – such as details of grandparents.

The declaration at section 9 should be completed by someone with parental responsibility for children under 16. Young people of 16 and over will sign the declaration themselves, unless the young person is unable to sign because of a physical or mental/learning disability. In these circumstances the unable to sign policy must be followed.

i. The new declaration includes the words 'I am 16 (or will be within two weeks). Any applications received from young people who will be 16 within two weeks must be held until they turn 16. Applications received via the counter may be kept until the 16th birthday if the applicant wishes. Alternatively they may be accepted as a child's application, the appropriate fee taken and issued valid for 5 years. The consent of a person with parental responsibility will be required if the passport is issued before the 16th birthday. The system must be checked to ensure the passport is issued with the correct validity, and that the correct signature will be printed on the passport. Please also see Children turning 16 after receipt of Application.

ii. A person under 16 may give consent for their own child, even though they themselves will need parental consent for their own application. However, as

they would require consent from their parent whilst under 16, very young parents under this age should submit a letter from their mother or father with the application confirming they agree with their son/daughter's request for a passport. (Remember, a young father may have parental responsibility for a child, even though he is not married to the mother.) For further information on Parental responsibility see the heading 'Parental Responsibility'.

iii. The declaration includes the wording that 'If an application for a child, I have parental responsibility for the child'. Where it is unclear from the information provided how the father has gained parental responsibility we must write to him, asking whether he has acquired parental responsibility through an Order or Agreement and ask for it to be forwarded for perusal. Alternatively a letter of consent from the mother will be necessary.

iv. There are certain circumstances when the person with parental responsibility is not available to give their consent. The Identity and Passport Service has to be extremely careful when applications are received without this consent. A passport may be authorised if the application is made by, or supported by the signature of an adult who can establish that they have parental responsibility, parental rights or they are acting in loco parentis. Further information is given under 'Loco Parentis'. Alternatively the application may be accepted if it is accompanied by the written consent of someone with parental responsibility.

v. Where the consent is not straight forward, the application must be referred to the team leader. This includes

- Children in Care
- Applications from an individual acting in 'loco parentis'
- Testamentary guardians
- Applications with court orders forbidding the issue of a passport
- **Any** applications where the consent causes concern for whatever reason must also be referred to a team leader detailing the concerns raised.

The form must be countersigned by a professional person (or a person of standing in the community) who holds a current British or Irish passport and has known the applicant for two years or more and can certify the photo as a true likeness of the child. Where the application is for a child under 16 they must have known the person who completes section 9 for two years and also have personal knowledge of the child, this means that they must be able to identify the photograph they are certifying as the person named at section 2 of the form. Further details of who can be accepted may be found under Countersignatures.

Renewal Applications

A cross must be placed in the box marked 'Renewal of your passport child (under 16)'.

Section 2, 3, 4 and 9 must be completed as directed above. If the child is between 12 and 15 the child must also sign at section 6 and date it. New application packs include forms that also request the completion of Section 4. This is requested to aid an examiner establish that the person who gave consent has parental responsibility. Provided the information given is enough to establish parental responsibility by the parent who gave consent at section 9, there will be no need write out if some information is missing. An application completed by the child's father which shows a date of marriage at section 4 may be accepted by an examiner as they may be satisfied that the father has parental responsibility. Where consent is unclear, the application will need to be dealt with by an examiner with the appropriate experience and training. Old forms that do not request this information may be accepted with section 4 left blank.

From 10 December 2007 any applications received to renew a passport for children under 12 are required to be countersigned. This will help examiners when the child cannot be identified from their previous passport.

Where a Renewal application for a child less than 12 years of age is submitted at an IPS Public Counter without a countersignature, the Counter Examiner may accept the application provided the child can be clearly identified from the photograph in the previous passport. A note should be made on the Back Office Form explaining that the application has been accepted in accordance with this section of this policy document. Where the child cannot be identified the applicant must be advised to obtain a countersigned application form and certified photograph.

Extensions

A child's passport will be submitted for extension for two reasons:

- The passport was issued valid for 5 years before 26 March 1998. Requests for extension for this reason will diminish in time.
- Rarely, the passport was issued valid for one year (or less) to facilitate compassionate travel where the application was not complete.

A cross must be placed in the box marked Extension of a passport to full validity, child (under 16).

Section 2, 3, 4 6 and 9 must be completed as detailed in first time applications. The form need not normally be countersigned unless:

- The child is under 12
- The child can no longer be identified
- The application was originally restricted because there was a problem with the countersignatory

Please see Extensions to Child passports issued in March and April 1998.

Documents

From 1 January 1983, children born in the United Kingdom are no longer British by their birth alone.

From 3 January 2005, documentary evidence to establish the child's claim to British nationality will be required together with the child's full birth certificate. In most cases the details of the mother's British passport will be enough. However examiners will need to look at the information provided and decide which will be the simplest route. (This will be based on the documents provided, whether both parents have a British passport, the parents' place of birth, what documents are easily obtained and so on). Where the claim is through the father, his marriage certificate will also need to be produced if the child was born in the UK after 31.12.82 and before 1.07.06.

From 1 July 2006, under the British Nationality (Proof of Paternity) Regulations 2006, a child born on or after that date may claim British nationality through,

- a) The husband of the child's mother at the time of the child's birth
- b) the father, even if the parents are not married, provided the father's details are shown on the full birth certificate.
- c) the man who is treated as the father under the Human Fertilisation and Embryology Act 1990. *That is the husband of the birth mother.*

Applications for children born after 30 June 2006 in the UK may be accepted with the child's full birth certificate showing father's details together with evidence of father's claim to British nationality or settlement in the UK.

If the child is born after 30 June 2006 overseas, we will need to see the child's full birth certificate showing father's details plus evidence that the father is a British citizen otherwise than by descent. This may be accepted without question, unless there is clear evidence that the child's mother was married to someone other than the father at the time of the child's birth.

This does not affect claims made through the mother.

From 6 April 2009 the definition of a parent for nationality purposes under section 50 will be as follows:

The mother is the woman who gives birth to the child, and

The father is either:

- a) the mother's husband, if any at the time of the child's birth,
- b) any person who is treated as the father under section 35 or 36 of the Human Fertilisation and Embryology Act 2008 or

ba) a woman who is treated as a parent of the child under section 42 or 43 of the Human Fertilisation and Embryology Act 2008 (second female parent), or

c) if none of the above applies, a person who is proved to be the father by production of either

i) a birth certificate identifying him as such and issued by the competent registration authority within 12 months of the birth of the child, or

ii) such other evidence, such as a DNA test report or court order as may satisfy the Secretary of State.

From 13 January 2010 the Borders, Citizenship and Immigration Act 2009 amends the British Nationality Act 1981. Section 1 is amended so that from 13 January 2010, any child born in the United Kingdom to a parent in the armed forces (and subject to Service law) will be a British citizen.

It will be seen that children who previously qualified under section 1(1)(b) because of parents who were in HM Forces will, from 13 January 2010, qualify under section 1(1A) BNA 81.

In certain circumstances, the documents to establish the child's nationality will be unable to be produced. In these circumstances, no passport can be issued and the application must be failed and the fee retained. The applicant will need to contact the Nationality Enquiry Team, United Kingdom Border Agency, PO Box 306, Liverpool L2 0QN for further advice about establishing the child's claim to British nationality.

Applications for children containing documents establishing a claim under section 1(1)(b) BNA 81 must be case noted and referred to a team leader for acceptance. Any foreign marriage certificate that has been submitted as part of the documentary evidence of a claim to British nationality must also be referred to a team leader for acceptance. Information on acceptable marriage certificates may be found in the on line policy document under 'Marriages'.

From 30 December 2005 the Adoption & Children Act 2002 is fully implemented. Under the regulations, the Registrar General may authorise an entry to be made in the Adopted Children's Register if satisfied that a child was adopted under a 'registrable foreign adoption'. The result of this change is that a UK Adoption certificate may be issued to a child born and adopted overseas. This does **not** affect the nationality of the child adopted overseas, and care will need to be taken to ensure that any adoption certificate shows that the child was adopted **in the UK** or subject to a Hague Convention adoption.

Any court orders that relate to the restriction of parental responsibility of the applicant, grants parental responsibility to the applicant or restricts movement of the child must also be submitted. These need to be carefully read in their

entirety to ensure that there is nothing on the order that either forbids the issue of a passport, or forbids the individual from applying for a passport. Detailed information on the various court orders can be found under the heading 'Court Orders'.

The list below provides details of the documents that are required for straightforward children's applications. Please note this list summarises the main points from the Full Birth Certificate policy to provide a quick guide. Further information can be found regarding the documents required on the FBC page to establish nationality:

First Time Applications - born UK

- Child's Registration certificate

Or

- Child's full birth certificate (FBC) and

mother's British passport number at section 4. If the mother is born after 31.12.82, the passport should be issued before the date of birth of the child.

or

mother's British passport number issued after the date of birth of the child at section 4, plus her parent's details at section 8 if the mother is also born after 31.12.82 or overseas

or

evidence of her claim to British nationality*, e.g. UK birth, Registration or Naturalisation Certificate and any relevant certificates relating to parents;

or

mother's foreign passport showing Indefinite Leave to Remain (ILR) at time of child's birth;

or

full birth certificate **and** mother's foreign passport **and** a letter from HM Forces confirming the mother is/was subject to Service law at the time of the child's birth.

or

father's British passport number issued before the date of birth of the child at section 4 and his marriage certificate to child's mother

or

father's British passport number issued after the date of birth of the child at section 4, plus his parent's details at section 8 if he is also born after 31.12.82 or overseas

or

evidence of his claim to British nationality*, e.g. UK birth, registration or naturalisation certificate and his marriage certificate and any relevant certificates relating to parents,

or

father's foreign passport showing he had ILR at the time of the child's birth plus his marriage certificate to the child's mother; (For children born after 30 June 2006 the father's marriage certificate is not needed but father's details must be shown on the child's FBC)

or

full birth certificate **and** father's foreign passport plus his marriage certificate** to the child's mother **and** a letter from HM Forces confirming that he is/was subject to Service law at the time of the child's birth..

In addition the following are needed:

- any passport on which the child is included
- and any court orders that restrict parental responsibility or movement of the child
- any court orders granting parental responsibility where it would not have been held otherwise.

*If the parent is also born after 31.12.82 the full birth certificate and grandparents' documents may also be required.

First Time Applications - born Abroad

- Child's Registration certificate

Or

- Child's full birth certificate and

Mother's UK birth certificate, passport or registration/naturalisation certificate establishing her claim to British nationality otherwise than by descent*;

or

father's UK birth certificate, passport or registration/naturalisation certificate establishing his claim to British nationality otherwise than by descent* plus his marriage certificate to the child's mother;

(For children born after 30 June 2006 the father's marriage certificate is not needed but father's details must be shown on the child's FBC)

In addition the following are required:

- any passport on which the child is included;
- plus any court orders that restrict parental responsibility or movement of the child
- any court orders granting parental responsibility where it would not otherwise be held.

Where the parent is born in the UK after 31.12.82, their FBC and parents' documents may also be required.

First Time Applications - Adopted UK

- Child's full adoption certificate showing that the adoption took place in the UK.
- Evidence that one of the adopters is a British citizen*, e.g. UK birth certificate, passport, registration or naturalisation certificate.
- Any passport on which the applicant was included as a child.
- Any court orders granting or restricting parental responsibility or movement of the child.

*If the adopter is born in the UK after 31.12.82, or born overseas, their FBC and parents' documents may also be required.

First Time Applications - Adopted Overseas

- Full Hague Convention Adoption Certificate confirming adoption made under Hague Convention plus evidence that one of the adopters is a British citizen.
- Any other overseas adoption: child's registration certificate showing they have been registered as a British citizen.
- Any passport on which the applicant was included as a child.
- Any court orders that grant or restrict parental responsibility or movement of the child.

Renewal Applications

- Previous passport;
- Any court orders restricting parental responsibility or movement of the child.

Extensions

- Child's passport;
- Also, if the passport has been restricted because of missing documentation, the outstanding document should also be forwarded.

- Any court orders that grant or restrict parental responsibility or movement of the child.

Change of Name

Documentary evidence Change of Name:

- Statutory Declaration
- Change of Name Deed
- Re-registered Birth Certificate

Plus:

- Letter of consent to change of name from everyone with parental responsibility or
- Court order permitting the change of name or
- Statutory declaration from applicant confirming everyone with parental responsibility has agreed to the change of name (unless there is a court order in force in which case written consent must be seen).

Return of documents

Parents are concerned particularly when the documents are related to adoption. Children are not always advised of their adoption and we should take care to ensure they are not informed by our actions. In addition, children have been able to take control of their passports and documents without the parents' knowledge leading to fears that the child may have been in a position to run off.

The person with parental responsibility makes the application for children under 16 and as such, the passport and documents should be returned direct to the them and **not** the child.

Parental responsibility

The **Children's Act 1989**, which came into force on 14 October 1991 in England and Wales, introduced the concept of parental responsibility. It is defined as all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property. Parental responsibility gives an individual legal rights in respect of the child. More than one person may hold parental responsibility for a child, and they will not lose that parental responsibility because some other person subsequently acquires parental responsibility for the child. When more than one person has parental responsibility they can act alone unless there are specific provisions in law that require the consent of more than one person, for example, for adoption or changing the child's name.

There is similar legislation in Northern Ireland and Scottish law with the **Children (Scotland) Act 1995** and **The Children (Northern Ireland) Order 1995**.

Where a child's father and mother were married to each other at the time of the birth, or subsequently, they shall each have parental responsibility for the child. In Scotland, a child's father acquires parental responsibility if the parents were married to each other at the time of conception or subsequently. (In essence this difference means that in England and Wales, the father must be married to the mother at the time of the birth, or after. However, in Scotland if the father was married to the mother at any time during the pregnancy, but not at the actual time of birth, he would still have parental responsibility.)

Where a child's parents have not been married to each other, the mother has sole parental responsibility, unless the father acquires it by obtaining a Parental Responsibility Order or a Parental Responsibility Agreement. Section 4 Children's Act 1989, Article 7 of The Children (Northern Ireland) Order 1995 or Section 4 of the children (Scotland) Act 1995 refers. He can also acquire parental responsibility as explained below.

The law in Scotland differs slightly to the rest of the United Kingdom in that a person of 16 years and over has the legal capacity to enter into any transaction having legal effect. This includes applying for a passport. Section 2 of the Children (Scotland Act) 1995 provides that a parent has the right to control, direct or guide, in a manner appropriate to the stage of development of the child, the child's upbringing. In this section "child" means a person under the age of 16 years. After 16, parents have the right to provide guidance only. If the child chooses not to follow the guidance, they have that right.

The Children's Act 1989, gives parental responsibility to both parents where they were married at the time of the child's birth or later. A number of enquiries have been made from mother's who have subsequently found her husband (or ex husband) is not the biological father through DNA testing. Particular care should be taken when dealing with these cases, our legal advice is that the person named on the birth certificate as the father should be presumed to have parental responsibility unless, (i) the court makes a declaration of parentage, (ii) he himself acknowledges that he is not the father, or (iii) clear evidence is produced that he accepts he is not the father. Where the child's birth was registered, or re-registered after the introduction of the Children and Adoption Act 2002, the father will still have parental responsibility even if it is later established that he is not the biological father (see 7.10).

The Family Law Act (Northern Ireland) 2001 came into force on 15 April 2001. It defines how an unmarried father in Northern Ireland can acquire parental responsibility for his child. The Act grants parental responsibility to an unmarried father who jointly registers the child's birth with the mother. **It should be noted that where an unmarried father gains parental responsibility in this manner he will not lose it even if it is established that that he is not the father and his details removed from the birth certificate by the addition of a marginal note.**

To establish parental responsibility under the Family Law Act (Northern Ireland) for the father, the Identity and Passport Service (IPS) must have:

- A full birth certificate issued in Northern Ireland showing the father has jointly registered the birth, is named as the father, and the registration took place on or after 15th April 2002
- This only affects parental responsibility and has no effect on the National Status of the child.

The Adoption and Children Act 2002 came into force on 1 December 2003. This law provides for an unmarried father in England and Wales to acquire parental responsibility if his details are recorded in the birth register entry. This can be entered on the joint information of both parents or on the information of one parent with a statutory declaration of acknowledgement of paternity from the father.

Parental responsibility is also acquired under this Act on re-registration of the child's birth to include the father's details after the birth was registered initially without his details.

The Act also provides that an unmarried father who acquires parental responsibility as above or by a parental responsibility order (or an agreement registered with the Court) shall only lose that parental responsibility by Order of a court. Therefore if the man is subsequently found not to be the father and his details are removed from the birth record (by means of a marginal note) this does not bring his parental responsibility to an end. (See also Children's Change of Name.) For IPS purposes this legislation only covers birth registration in England and Wales. The legislation is not retrospective and only affects birth registration in England and Wales on or after 1 December 2003 where the parents have jointly registered the child's birth.

Applications received for children where the parents are unmarried and the father has acquired parental responsibility - either through the acquisition of a Parental Responsibility (PR) Order or Agreement, or through the provisions of the Acts at 6.5 or 6.7 - must be case noted to explain how the father acquired his parental responsibility.

E.g. Parental Responsibility Order/Agreement seen, issued 00/00/00 by xxxxxxxxxx. Shows father (name) acquires P R for (name). Or FBC produced confirms child (name) parent's details as sec 4, joint registration on 00/00/00.

This legislation **does not affect national status**, and, until the introduction of the British Nationality (Proof of Paternity) Regulations 2006 on 1 July 2006, an unmarried father was unable to pass his national status to any illegitimate child born to him, regardless of whether or not he has parental responsibility for the child. (See above)

Considerations when examining a full birth certificate issued in England and Wales:

- If both parents are shown but only one parent has registered the birth, parents are married and have joint responsibility.
- Only the mother's details and signature are shown – only the mother has parental responsibility unless there is a parental responsibility order or agreement in existence.
- Both parent's details and signatures are shown – birth registered after 1.12.2003, joint parental responsibility.
- Both parent's details and signatures are shown – birth registered before 1.12.2003, only mother has parental responsibility unless there is a parental responsibility order or agreement in existence.
- Both parents details and one parents signature, plus an annotation from the registrar indicating that the father's details have been included on production of a statutory declaration or in some cases a Court Order shown – registered after 1.12.2003, joint parental responsibility.

The **Family Law (Scotland) Act 2006** came into force on 4 May 2006 and an unmarried father will gain parental responsibility and rights for his child born and registered in Scotland if both parents register the child's birth together and both of their names appear on the birth certificate. It is not necessary for both parents to be at the registration office at the time the birth is registered as long as the parent registering the birth has written authorisation from the other to do so and certain forms are completed. The presence of the father's details on the birth certificate will indicate that the father has parental responsibility after this date.

If the mother and father do not agree to jointly register the child's birth then, only the mother will have parental responsibility and rights. The unmarried father may obtain parental responsibility by

- Marrying the child's mother.
- Signing and registering a parental responsibilities and parental rights agreement with the mother. This will then need to be registered in the Books of Council and Session, a public register kept in Edinburgh, who will send the parents an extract of the agreement showing the date of the registration. Once registered, it cannot be changed or ended except by an order of the court.
- Obtaining parental responsibilities and rights through the court.

Children born in Scotland prior to the introduction of this Act will not be affected by these changes and the unmarried father of a child will not have parental responsibility and rights unless he acquires them as detailed above.

There have been some cases regarding children born outside of the UK where the parental responsibility laws differ from our own and examiners have questioned whether we should be considering these laws in our examining process. Our legal adviser has been consulted and has confirmed that where the child is resident in the United Kingdom, we should be applying English law only.

Examples of who holds Parental Responsibility for Children under 18 in England Wales and Northern Ireland:

Both parents hold Parental Responsibility if:

- Both parents married at the time of child's birth.
- Both parents married after the child's birth.
- Parents unmarried but father holds a Parental Responsibility Order or Parental Responsibility Agreement.
- Birth of child jointly registered in Northern Ireland on or after 15.4.2002 and father's details are included on the birth certificate.
- Birth of child jointly registered in England and Wales on or after 1.12.2003 and father's details are included on the birth certificate.

(Scotland)

- Both parents married at the time of the child's birth.
- Both parents married at the time of conception.
- Parents unmarried but father holds a Parental Responsibility Order or Parental Responsibility Agreement.
- Birth of child jointly registered in Scotland on or after 4 May 2006 and father's details are included on the birth certificate.

Only the mother holds Parental Responsibility if:

- Parents are unmarried and
- There is no Parental Responsibility Order or Parental Responsibility Agreement held by father.

or

- Birth of child is registered before 15.4.2002 in Northern Ireland, or 1.12.2003 in England and Wales
- Father's details are not shown on the full birth certificate

(Scotland)

- Parents are unmarried and
- There is no Parental Responsibility Order or Parental Responsibility Agreement held by father.
- Birth of child is registered before 4 May 2006
- Father's details are not shown on the full birth certificate

Surrogate parents and assisted conception

Under the Parental Orders (Human Fertilisation and Embryology) Regulations 1994, if a child is born as a result of a surrogacy arrangement the commissioning parents, at least one of whom must be a genetic parent will be able to apply to the courts for a parental order and within 6 months of the child's birth may have the child's birth re-registered. A new birth certificate will

be issued. In these circumstances the new full birth certificate will show the commissioning parents as the mother and father (not the birth mother). The new full birth certificate will have 13 sections, as opposed to the normal 17 sections as there will be no sections regarding the Informant. It should be noted that, under UK law if neither of the commissioning couple have a genetic connection with the child, they will not be able to obtain a Parental Order.

Once a parental Order is issued under the 1994 regulations, the persons named on the order acquire parental responsibility **but it has no effect on the national status of the child see also children born/subject to parental orders issued after 6 April 2010 below.**

From 1 July 2006, the definition of father in the British Nationality Act 1981 was amended through the introduction of the British Nationality (Proof of Paternity) Regulations 2006. Nationality through the father can be claimed as detailed under the Act and the regulations.

Children born before 1 July 2006

For the purpose of the Human Fertilisation and Embryology Act **and** nationality legislation the legal father of the child is the husband of the surrogate mother provided he consented to her treatment. If the surrogate mother was not married when the child was born, or if her husband did not consent to her treatment, the child will have no father for nationality purposes. The mother is the person who gave birth to the child.

Where it is clear from the birth certificate that the child born before 1 July 2006 was subject to a surrogacy arrangement we will require to see the original birth certificate showing the birth mother's details, nationality should be passed through the mother.

Where the applicant is over 18 they may apply for their original birth certificate. They will also be required to provide evidence of their birth mother's status. Where the applicant is under 18, the parent/guardian must be advised that we will require the original birth certificate and the evidence of the birth mother.

If the original certificate and documents cannot be obtained the applicant must be referred to the UKBA for registration or a status letter.

Children born on or after 1 July 2006

The child's mother will be the person who gave birth to the child. The child's father is either,

a) the man (if any) to whom the surrogate mother was married at the time of the birth or

b) the man (if any) together with whom the surrogate mother received treatment services from a person licensed under the Human Fertilisation and Embryology Act to provide such services, (not the man who donates his sperm) or

if neither a or b applies

c) a person who is proven to be the father by either

(i) the production of a birth certificate issued by the competent authority within 12 months of the birth which names him as the father or

(ii) such other evidence (e.g. a DNA test report or court order) as may satisfy the Secretary of State on this point.

Where any other evidence, other than a birth certificate, is produced, such as a DNA test report, please refer to HQ Operational policy for advice.

A birth certificate issued following a parental order will be acceptable as evidence that the parents named have parental responsibility.

This will not be acceptable to establish nationality for children born before 1 July 2006 as it will show the commissioning parents and not necessarily the birth mother. After this date, the birth certificate (if issued within 12 months of the birth) will constitute conclusive evidence of paternity for nationality purposes irrespective of whether the named father is treated as such by the **Human Fertilisation and Embryology Act** (unless the surrogate mother is married at the time of the birth). For IPS purposes the birth certificate will be acceptable unless the birth mother was married to a third party at the time of the birth.

Where evidence or information is provided that suggests that the birth is a result of a surrogacy arrangement and the surrogate mother was married, the parent should be advised to contact the UKBA, Nationality Group for further advice.

In some countries it is possible to obtain a court order before the child's birth which allows the commissioning couple, rather than the surrogate mother and her partner, to be named as the parents on the child's birth certificate.

Where the child was born before 1 July 2006, neither the foreign court order nor the resulting birth certificate affects the legal position in the United Kingdom, as described in paragraphs above. These documents may however, support a case for registration under **s.3(1)** of the BNA 1981 where either or both named parents are British citizens and it is clear that the child is to be brought up as part of their family.

The parenthood provisions Human Fertilisation and Embryology Act 2008 came into force on 6 April 2009. The Act enables a female partner of a woman who has assisted reproduction treatment to be recognised as the legal

parent of any child who may be born as a result of that treatment provided certain conditions are met, as mentioned below.

The Act amends the Children Act 1989 so that a second female parent may have parental responsibility. A second female parent will have parental responsibility automatically where she and the mother of the child were in a civil partnership at the time of the fertility treatment, or where the mother and second female parent not in a civil partnership at the time of the treatment became civil partners, by the time of the child's birth. A second female parent not in a civil partnership with the mother at the time of the treatment will also acquire parental responsibility by registering as the child's parent in the register of births, by making a parental responsibility agreement with the child's mother or by obtaining a court order.

Section 42 of the HF&E Act applies to women who were in a civil partnership at the time of the treatment. If the woman who is being treated is in a civil partnership, then her partner will be the parent of the child (unless she did not consent to the treatment).

Section 43 of the Act applies to female same sex couples who are not in a civil partnership. The female partner of the woman being treated can be recognised as the legal parent of the child and named on the birth certificate provided both she and the woman being treated complete a parenthood agreement before the treatment is started, and that the treatment was provided by a licensed person in the UK.

The Act also amends the British Nationality Act 1981 so that any reference to the father of a child should read as a reference to the woman who is the parent of a child by virtue of section 42 or 43.

The provisions of the 2008 Act which confers legal parenthood on the female partner in a same sex relationship where a child is born to them following assisted conception commenced on 6 April 2009.

This means that for a child conceived **on or after** 6 April 2009, the definition of 'parent' for nationality purposes will be as follows:

The '**mother**' is the woman who gives birth to the child and

The '**father**' is either:

- (a) the mother's husband, if any, at the time of the child's birth
- (b) any person who is treated as the father under section 35 or 36 of the Human Fertilisation & Embryology Act 2008, or
- (ba) a woman who is treated as a parent of the child under section 42 or 43 of the Human Fertilisation & Embryology Act 2008 (second female parent), or

(c) if none of the above applies, a person who is proved to be the father by the production of either

- (i) a birth certificate identifying him as such, and issued by the competent registration authority within 12 months of the birth of the child; or
- (ii) such other evidence as may satisfy the Secretary of State in this point. (For example a DNA test report or court order)

The Registration of Births and Deaths Regulations 1987 have been amended to allow the mother's female partner to be registered on the birth certificate as the child's other parent, provided the conditions laid down under the Human Fertilisation & Embryology Act 2008 have been met. In these circumstances, the heading in space 4 of the birth certificate will be "PARENT". (In the case of heterosexual parents, the heading will continue to be "FATHER".) A copy of the certificate may be found in the PPG Documents sub-folder in the S drive Policy folder.

The amended regulations came into force on 1 September 2009 as the Human Fertilisation and Embryology Act 2008 applies only to couples where the child was conceived as a result of assisted reproduction treatment received on or after 6 April 2009.

A full birth certificate issued in the UK under these regulations will be acceptable evidence of parentage for nationality and parental responsibility.

For children born in the UK after 6 April 2009 with two female parents, the following documents are required:

- Full birth certificate showing parentage
- Parent's claim to British nationality
- Parent's claim to settlement

For children born overseas the following documents are required:

- a) Full birth certificate showing parentage
- b) Parent's claim to British nationality
- c) Civil Partnership Certificate and
- d) Evidence of treatment, for example letter from the clinic where the treatment took place

Or

- a) Full birth certificate showing parentage

- b) Parent's claim to British nationality
- c) Evidence of treatment in a UK Licensed Clinic

Children Born/Subject to a Parental Order after 6 April 2010

As a result of the Human Fertilisation and Embryology Act 2008, the Human Fertilisation and Embryology (Parental Orders) Regulations 2010 came into force on 6 April 2010. These are similar to the previous regulations but they extend who can apply for a parental order to Civil Partners, unmarried opposite sex couples or same sex couples. In addition, the regulations amend section 1(5) British nationality Act 1981 so that a reference to an adoption is read as a reference to a parental order granted on or after 6 April 2010.

This means that a child who is the subject of a parental order made in a UK court after 6 April 2010 will become a British citizen from the date of the order if one of the persons who obtained that order is a British citizen.

The full birth certificate will be the same as previous certificates issued following a Parental Order and have 13 sections, as apposed to the normal 17 sections as there will be no sections regarding the Informant. However depending on the parents, it may show male and female parents or two same sex parents.

UKBA has confirmed that we can continue to accept a claim under the British Nationality (Proof of Paternity) Regulations 2006 through the father if he is named on the birth certificate within 12 months. Alternatively, for children who are subject to a Parental Order granted on or after 6 April 2010, a claim can also be considered through the mother under Section 1(5) British Nationality Act 1981.

As with any claim under Section 1(5), the full certificate showing parents details plus documentary evidence of the parent's claim to British nationality will be required. Where the parents are not British there will be no claim under section 1(5) British Nationality Act 1981.

Court Orders

There are occasions where a child may not be in the care of the Local Authority, but may nevertheless be subject to a Court Order. Any Court Orders on behalf of the child that relate to restrictions on a child's movement or that either give or restrict parental responsibility should accompany the application, unless the child is in the care of the local authorities. (See below for instructions on dealing with children in care.)

Section 8 of The Children Act 1989 replaces the powers of the courts to make custody and access orders and resolve disputes between parents and others that have custody orders. They comprise a flexible package of orders, which

should be able to cater for any question that may arise about the welfare of a child. Each Section 8 Order may be made for a specified period, impose conditions on those affected by it and contain directions as to how it is carried into effect [Section 11(7) CA 89]. A Section 8 Order may also be made during the proceedings when the court is not able to finally settle of the proceedings (what are commonly called interim orders) [Section 11(3) CA 89].

Section 8 Orders are designed to provide practical solutions to questions that arise. Unlike the old law, the emphasis is not on the custodial or non-custodial status of a parent. The intention is to encourage the adults involved to maintain their involvement in the child's life and to avoid driving unnecessary wedges between them. Nevertheless, where a dispute has arisen, the court is given extensive powers to resolve it.

An order may be made at any time until the child's eighteenth birthday but only exceptionally once he is 16 [Section 9(7) CA 89]. An order varying or discharging a Section 8 Order may be made when the child is 16 or 17 even if the circumstances are not exceptional.

Any court orders submitted must be carefully checked to ensure that there is nothing noted on it that prohibits the child being removed from the UK by an individual, restricts how they may act on behalf of the child, or prohibits the issue of a passport. This does not include the standard clause on children's court orders that prohibits the child's change of name or removal from the UK for over a month.

Residence Orders

A Residence Order issued under Sect 8 Children's Act, settles the arrangements as to the person with whom a child is to live. It normally remains valid until the child's 16th birthday unless otherwise stated and may be granted to someone who already has parental responsibility, or an adult without parental responsibility. In the latter case, they will only have parental responsibility whilst the order remains in force. Although the person named in the Order acquires parental responsibility if they do not already have it, they do not have sole parental responsibility. They cannot take the child out of the country for more than one month, or change a child's name without the consent of everyone with parental responsibility or a court order. The order may also be a combined Residence and Contact Order which gives details of who has contact with the child and how often.

When the court makes a residence order in favour of the father of a child, it will also make an order giving him parental responsibility under section 4 of the Children's Act 1989 if he does not already have it.

When the applicant would not normally have parental responsibility, the Residence Order must accompany the application. Once the child has reached 16 and the order is no longer valid, the consent of someone with parental responsibility must be obtained or evidence that the person giving consent is acting in loco parentis will need to be provided.

Care should be taken in the case of an interim Residence Order to ensure that the Order is valid at the time the passport is being passed for issue.

Examiners must also be careful to read the whole Residence Order to ensure that it does not contain any details that may exclude the issue of a passport to a child. Provided the order does not forbid the issue of a passport, (or does not restrict who may apply for one) the holder of a residence order is acceptable to provide consent. Any cases of doubt should be referred to the Fraud Intelligence Unit (FIU).

Contact Orders

A Contact Order is a specific order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order or for that person and the child otherwise to have contact with each other. It may be combined with another order or be separate. On its own it does not confer parental responsibility, although the holder of the order may have parental responsibility in some other way. Care should be taken to ensure there is nothing contained in the order that prohibits the issue of a passport. Any cases of doubt should be referred to FIU.

Special Guardianship Orders

On 30 December 2005 Special Guardianship Orders were introduced under the Children Act 1989. The order is governed by the Special Guardianship Regulations 2005 and Special Guardianship (Wales) Regulations 2005 in England and Wales.

Special Guardianship Orders will be issued by courts in England and Wales from 30 December 2005, and will be recognised through out the UK. There is presently no similar legislation in Scotland or Northern Ireland.

Special guardianship orders were introduced to provide legal permanence for those children for whom adoption is not appropriate. They are intended to:

- Give the carer clear responsibility for all aspects of caring for the child and for taking the decisions to do with their upbringing. The child will no longer be looked after by a local authority.
- Provide a firm foundation on which to build a lifelong permanent relationship between the child and their carer.
- Be legally secure.
- Preserve the basic link between the child and their birth family.
- Be accompanied by access to a full range of support services.

The order appoints a person or persons to be a child's special guardian. Applications may be made by an individual, or jointly by two or more people to become special guardians. Special guardians must be 18 or over. The parents of the child may not become the child's special guardian.

Once appointed, the special guardian will have parental responsibility for the child. Unlike a Residence Order which allows the holder joint parental responsibility for the child whilst the order is in force, a special guardian may exercise parental responsibility to the exclusion of all others with parental responsibility (including parents and holders of residence orders) apart from another special guardian with two main exceptions. The intention is that the special guardian will have clear responsibility for the day to day decisions about caring for the child or young person and their upbringing. This does not mean that the parents lose their basic link to the child. They remain legally the child's parents. When a special guardianship order is in force, a special guardian is entitled to exercise parental responsibility to the exclusion of any other person with parental responsibility for the child (apart from another special guardian).

While a special guardianship order is in force, written consent of every person who has parental responsibility for the child, or the leave of the court must be given:

- To change the child's surname;
- To remove the child from the United Kingdom for longer than three months.

A special guardianship order remains in force until the child is 18, or unless discharged.

The holder of a special guardianship order must provide the consent to passport facilities for the child under 16 irrespective of where the child is living unless there is a subsequent court order that varies the conditions of the original order or restricts the issue of a passport to the child. If there is more than one person who is named as the special guardian, we can accept consent from either guardian.

Where a special guardianship order is in force and the child's name has been changed, the consent of every person who has parental responsibility must be submitted. Alternatively we will accept a court order permitting the change of name.

Where the application is to replace a passport declared lost, our normal one passport per person policy applies.

Prohibited Steps Order

A Prohibited Steps Order sets out certain conditions regarding what a parent is able to do when meeting their parental obligations without first seeking permission from the court. This enables courts to make orders about particular matters when a person with a bona fide interest in the child's welfare applies. As such these orders should reduce the need for a child to be made a ward of court. The most obvious example of a prohibited steps order would be to indicate that the father/mother/person with parental responsibility cannot apply for a passport for the named child, or cannot remove the child

from the jurisdiction of the court. Extreme care should be taken to ensure the order does not forbid the issue of a passport, any cases of doubt should be referred to FIU before issue.

Court Orders instead of parental consent

There may be the rare occasion when an application is received for a child, and those with parental responsibility have refused to give their consent. Instead they have submitted a Court Order which indicates that it is in the best interests of the child that s/he is issued with a passport. This type of situation might arise where a child is voluntarily accommodated by the local authority and, for example, wishes to go on holiday independently or with their carers.

Applications received with such an Order may be accepted. However, the passport application form is not entirely suitable in these kinds of circumstance, and should be dealt with as follows:

- Sections 1-6 - These sections must be completed if relevant to the application.
- Section 9 Where the child is under 16 years, it is imperative that an adult signs this section. In the absence of a person holding parental responsibility, there will presumably be another adult in a position to sign the form (eg, the adult with whom the child is going on holiday, foster parent or a social worker). If the adult signing the form is not a parent or guardian with parental responsibility for the child, the declaration can be manually altered as follows:

Clauses 2, 3, 4 and 6 may be deleted, if any of them give cause for concern or difficulty for the adult signing the form.

Clauses 1, 5, 7 and 8 must not be deleted they are mandatory declarations without which the application should not be processed.

If any clauses are deleted as above, the application form must be accompanied by a Court order indicating the parent/s should not use their parental responsibility to veto the application. The Order should also state that the court considers it to be in the best interests of the child that a passport is issued. A statement from the adult signing section 9, providing a written explanation as to why they are making the application on the child's behalf, what their relationship is to the child, and in the case of a child being accommodated by a local authority an explanation from that authority should also accompany the application.

Additionally, if clause 3 is deleted, then the adult signing the form must instead enter at section 8 a statement in the following terms: "The person named at section 2 is, to the best of my knowledge and belief, a British national and has not lost or renounced his/her national status."

Children in the care of the local authority

The United Kingdom has three separate jurisdictions, England & Wales, Northern Ireland and Scotland. The policy when dealing with passport applications for children in care differs depending on where the child is resident.

The circumstances of each will vary considerably and discretion should therefore be exercised. Examiners and line managers should bear in mind that the local authority in whose favour a Care Order has been granted is ultimately responsible (subject to any Court Order) for the care and control of the child and whether or not they allow the child to travel abroad. Any cases of doubt should be referred to their line manager first. Policy section may also be consulted via the regional PNG officer.

Applications received from local authorities should be signed by the Director or Manager of the Social Services whilst the social worker who has a personal knowledge of the child should countersign the application form and photograph.

The circumstances of each will vary considerably and discretion should therefore be exercised. Bearing in mind that the local authority in whose favour a care order has been granted is ultimately responsible (subject to any court order) for the care and control of the child and whether or not they allow the child to travel abroad.

England and Wales

Children in care in England and Wales fall within the provisions of the Children's Act 1989, which received Royal Assent on 16 November 1989 and came into force on 14 October 1991. Care Orders made under previous legislation became full Care Orders under Section 31 of the Children Act 1989 by virtue of the operation of schedule 14. The local authority gains parental responsibility but they do not have exclusive rights - the natural parents retain their parental responsibility. However, for practical purposes the Local Authority has care and control of the child and must provide their consent.

The Local Authority may apply for passports for the child but they cannot change the child's surname or remove the child from the United Kingdom for over one month without:

- The written consent of every person who has parental responsibility of the child or
- The leave of the Court.

Ultimately, it is for the local authority to comply with the Court Order. It is not the responsibility of the IPS to monitor their compliance, only to ensure that they have parental responsibility at the time the passport is issued.

In most cases, the child will be going abroad for less than one month. We require a letter from the local authority, confirming the child is in full care of the local authority and the section of the Act under which the child is in care.

The letter should also confirm where the passport should be sent. When children are in care under Section 31 Children's Act, the actual Care Order is not required.

Interim Orders made under Section 38 are full care orders that are valid for a specific period but gives the local authority parental responsibility during that time. Again the local authority does not have exclusive rights. These must be treated in exactly the same way that we treat a Section 31 Care Order. We will need to see the Care Order to ensure that it is still valid before accepting an application completed by the Social Services. It is important to note that the order must be in force at the time that we pass the passport application for issue.

Children who are accommodated by the local authority under Section 20 of the Children's Act 1989 are in voluntary care and the local authority does not have parental responsibility. In these circumstances we should have the consent of one of the parents who hold parental responsibility together with a letter from the local authority confirming that the child is accommodated under Section 20 of the Act. If the parents' whereabouts are unknown or deceased, we need a letter from the local authority outlining the circumstances, including how long the parents have been missing and giving details of any attempts they have made to track down the missing parents. Once we have the full facts of the case, it should be referred to an HEO with a proposal to accept. Any cases of doubt should be referred to the Policy Section for further advice.

Where the parents' whereabouts are known and the local authorities are having problems obtaining the consent because of a refusal of the parents to co-operate, the authorities must be advised that they should obtain a Court Order which indicates that it is in the best interests of the child that s/he is issued with a passport. (See 14 above.)

Occasionally applications are received completed and signed by foster parents. Provided we have a letter from the Director or a manager of the local authorities confirming

- That they consent to the child having a passport
- They include details of the Section of the Act the child is in care under
- There are no other causes for concern with the application
- The address where the passport is to be returned

The letter of consent may be accepted in lieu of the application being completed by the local authorities.

Northern Ireland

The legislation under the Children (Northern Ireland) Order 1995 mirrors that of the Children Act 1989. Article 50 The Children (Northern Ireland) Order 1995 is a full care order, giving the local authority parental responsibility and

where we receive applications from children in care of the local authority in Northern Ireland, we should treat the case in the same way.

- Request letter from the local authority confirming the Article of the Children (Northern Ireland) Order 1995 under which the child is care.
- When the child is subject to an interim order, we also need to see the order to confirm that it is still valid.
- Confirmation where they wish the passport to be returned.

Under the Children (Northern Ireland) Order 1995, no one can change the child's surname or remove the child from the United Kingdom for over a month without:

- The written consent of every person who has parental responsibility of the child or
- The leave of the court

Scotland

The Children (Scotland) Act 1995 received Royal Assent on 19 July 1995. It centres on the needs of children and their families, and defines parental responsibilities and rights in relation to children. It sets out the duties and powers available to public authorities to support children and their families and to intervene when the child's welfare requires it.

The local authority may give consent to a child's passport provided they have a Parental Responsibility Order under Section 86 or Section 11 of the Children (Scotland) Act 1995.

When the local authority under Section 25 of the Act looks after a child, the local authority does not have parental responsibility for the child. In these circumstances the consent of the parent should be provided.

Section 70 of the Children (Scotland) Act may grant a compulsory supervision requirement. This may be granted for up to 12 months (although it may be renewed) and sets out specific conditions for the care of the child. A supervision requirement does not end parental responsibility or rights. It may however set out the compulsory measures of supervision considered necessary for the child. It may determine appropriate contact with the child and/or require the child to be removed from the care of the parent. In such cases the local authority may be authorised to place the child elsewhere. Where the court order clearly forbids contact with the parent with parental responsibility and rights, the consent from the local authority or the person named in the order will be acceptable.

If the parents' whereabouts are unknown or the parents are deceased, we should request a letter from the local authority outlining the circumstances, including how long the parents have been missing and giving details of any attempts they have made to track down the missing parents. Once we have

the full facts of the case, it should be referred to an HEO with a proposal to accept. Any cases of doubt should be referred to the Policy Section for further advice.

Where the parents' whereabouts are known and the local authorities are having problems obtaining the consent because of a refusal of the parents to co-operate, the authorities must be advised that the application should be supported by a specific issue order. The order should give permission for an application to be made and for the child to leave the jurisdiction. A local authority cannot apply for the specific issue order under the Act but this should not prevent the child or another person (such as the foster parent) from applying.

Children travelling abroad pending adoption

In the exceptional case where a child is to be taken or wishes to go abroad during adoption proceedings, the consent of the adoption agency having responsibility of the child must be obtained before a passport is granted unless the child is subject to a Placement Order. In most cases children who are subject to adoption are placed through the local authority. Where the authority has informed us that the child is subject to a Placement order or in the process of being adopted we need to establish:

- Whether there are any Court Orders in respect of the child
- If a Placement Order under the Adoption and Children Act 2002 has been granted.

Where a Placement Order has been granted under the Adoption and Children Act 2002 but not yet placed with prospective adopters, the child will be looked after by the local authority who should provide their consent to the child's passport application.

Where a Placement Order has been granted under the Adoption and Children Act 2002, and the child has been placed for adoption with the prospective adopters they will have parental responsibility. They will not be able to change the child's name without the consent of the Court or the written consent of everyone with parental responsibility. However, there may be restrictions on the scope of their parental responsibility so it will be necessary for the court order to be seen.

In many cases the Court Order may not show who the prospective adopters are. If this is the case, a letter from the Local authorities is needed confirming the names of the prospective adopter(s) who they placed the child with.

In the unlikely event that the adoption is through a private adoption agency, we proceed in exactly the same manner.

If an application is supported by an interim order made under Article 26 of The Adoption (Northern Ireland) Order 1987, or Section 25 of the Adoption

(Scotland) Act, the consent of one of the applicants to whom the order was granted may be accepted.

For further information on adoption, see Adoption.

Loco parentis

The term loco parentis refers to a person who is caring for a child in the absence or death of the parent or guardian who has parental responsibility. As passport applications require consent from someone with parental responsibility, the Identity and Passport Service has to be extremely careful when applications are received without this consent.

A Statutory Declaration (please see Statutory Declarations) must be produced in every case where an adult claims to be acting in loco parentis. (See below for information when dealing with the child's father who has not been married to the mother.) Applicants should be made aware that the document is legally binding and a false declaration can lead to criminal charges. **Additional documentary evidence should accompany the Statutory Declaration.**

Applicants should be advised to consult a solicitor to produce the statutory declaration. The statutory declaration should indicate that the applicant is looking after the child, and why. It should explain why they are the most appropriate persons to apply for a passport, the date they commenced looking after the child, whether there are any others with parental responsibility where they are and **why they are unable to provide consent**. It should also indicate whether those with parental responsibility are aware of the application, if not why not, and what they think of the application.

The documentary evidence supporting the statutory declaration does not replace it.

Examples:

- Death Certificates
- Statement from Social Services
- Wills
- Full birth certificates
- Child benefit book
- Letter from head teacher at child's school, or child's doctor. Either must have personally known the child, the applicant and the circumstances.

The necessary evidence required will be dependent upon case specifics. On no account should an application be accepted without documentary proof of loco parentis. If the person claiming to act in loco parentis cannot provide the necessary documentation the case should be referred to a line manager. If necessary, line managers should consult their local policy network group liaison representative.

Where there is a prolonged absence of the person with parental responsibility, or the whereabouts of the person with responsibility is unknown, the statutory declaration should also include details of the efforts they have made to contact the person with parental responsibility. Documentary evidence, such as letters from relatives confirming they are unaware of the person's whereabouts, or the local authority (provided they are aware of the situation and can confirm the facts) the Head teacher at the child's school or child's doctor should also be supplied.

Care should be taken in considering the application and documents produced. Where the parents' whereabouts are known we should normally request a letter of consent from the parent even if they cannot be easily contacted. For example a school wishing to take a child on holiday but the parent with parental responsibility lives abroad, or where a father does not have parental responsibility and is reluctant to contact the child's mother. The argument that the parent will not speak to the applicant is not sufficient for passport purposes. Any cases of doubt should be referred to a line manager in the first instance, and if necessary to Policy Section to seek legal advice. **This should be made clear to the applicant before they are asked to obtain a Statutory Declaration.**

The application should be case noted with the details of the supporting documents produced, any letters should be scanned and the case referred to the team leader before passing for issue. The Statutory Declaration should be case noted and scanned to indicate the contents.

Unmarried fathers without parental responsibility

'In loco parentis' is the Latin for 'in place of a parent'. There have been a number of complaints from unmarried fathers who do not have parental responsibility objecting to this term when they are the sole parent looking after their child. The basis of the complaint is whilst they may not have parental responsibility; they are nevertheless the child's father. In view of this staff are requested to not use the term 'in loco parentis' when dealing with applications from unmarried fathers.

The father without parental responsibility will still be required to provide the same documents as detailed above. Care must be taken in the terminology used.

Testamentary guardian

Section 3 and Section 5 Children's Act gives parental responsibility to guardians appointed in a will. Section 5 also provides for a court order to be produced granting guardianship to a child when there is no one else with parental responsibility. In England and Wales, a testamentary guardian does not normally gain parental responsibility until there is no one left who already holds parental responsibility. In Scotland, the guardian appointed in a will has parental responsibility on the death of the parent, even if there is still another parent with parental responsibility available.

Where consent is given by a testamentary guardian (i.e. guardian appointed in a will), evidence is required to show that they have been appointed guardian. We also need to know that there are no court orders in force, and, in England, Wales and Northern Ireland, we need to be satisfied that there is no one else with parental responsibility.

The production of a full birth certificate will provide a guide as to whether or not both parents automatically had parental rights at birth. The declaration at section 9 of the application form will confirm that there are no court orders relating to custody or restricting movement of the child, but this will not confirm that there are no Parental Responsibility orders or agreements in force. The testamentary guardian will need to confirm in writing that there are no court orders or anyone else with parental responsibility and provide documentary evidence to confirm guardianship.

In Scotland, the testamentary guardian will only need to confirm in writing that there are no court orders in force for the child and provide documentary evidence to confirm guardianship.

In England, Wales and Northern Ireland, if an application is received from a testamentary guardian and it is clear from the information and documents submitted that both parents have parental responsibility, we need the consent from the other parent.

The documentary evidence required will depend upon whether or not probate has been granted. Where probate has been granted, the Probate Office keeps the original will and issues a Probate certificate. Clearly no probate will be granted unless the Probate Office is satisfied the individual is deceased. A copy of the will together with the original probate form will be acceptable.

The Principal Registry of the Family Division has advised us that where the value of the estate is small, probate is not required in the majority of cases.

Where probate has not been granted, there is no one else with parental responsibility and the child is not subject to a court order the death certificate and will is acceptable as evidence together with the guardian's statement.

On receipt of the documents and statement, the application must be case noted and referred to a line manager to accept.

Where both parents have died without making a will and there is no court order in place then those who wish to claim loco parentis should provide a statutory declaration. Documentary evidence such as death certificates the child's birth certificate or a child benefit book should be sufficient. A letter from the school or doctor can also be requested. If no documentary evidence can be produced the case should be referred to a line manager to make a decision based upon case merit. Further information is available under 'Loco Parentis'.

Where both parents have parental responsibility and one parent has died, we should request the consent from the remaining parent. If a will has been made appointing a guardian, this should be treated with care and we should handle these cases as we would those where the consent is given by someone acting in loco parentis.

Caveats

In certain circumstances a parent or any other interested party can lodge an objection with the IPS, to the granting of passport facilities for their child. The record remains in place for 12 months, after which the objector is contacted to ask whether or not they wish to continue.

Where a child is the subject of a caveat, the application for a passport should be referred to the FIU Section who is responsible for dealing with these cases. Similarly, any correspondence enquiries on the lodging of an objection to the issue of a passport, or correspondence where the writer expresses concern over the potential abduction of their child should also be referred to the FIU section.

The following details provide further information on Caveats. **Examiners should remember that queries on these must be dealt with by the FIU Department who has the expertise in this area.**

- An objector can ask the Identity and Passport Service not to issue a passport for a child if a court in the United Kingdom has made one of the following orders:-
- A prohibited steps order made under the Children's Act 1989 or the Children (Northern Ireland) Order 1995
- An order confirming that the child's removal from the jurisdiction is contrary to the wishes of the court
- An interdict made under the Children (Scotland) Act 1995
- A residence order made under the Children's Act 1989, The Children (Northern Ireland) Order 1995 or the Children (Scotland) Act 1995 and the objector is the person in whose favour the order has been made
- An order specifying that the objector's consent to the removal of the child from the jurisdiction is necessary
- An order upholding the objector's objections to the child having a passport or leaving the country.

Where a contact order or a parental responsibility order alone is submitted in support of a caveat, the caveat should be refused. A caveat may only be accepted if the contact order or parental responsibility order is supported by one of the orders mentioned above.

In the absence of a court order an objection can be considered from:-

- The mother, if the parents of the child have not been married to each other and there is no parental responsibility order

- The police, where they have notified the Identity and Passport Service of an intention to exercise their power of arrest under the Child Abduction Act 1984.

It frequently happens that when an objection is accepted, the child already has a valid passport, or the child's name is already included in the valid passport of a relative or parent. We are not an enforcement agency and we are unable to compel the surrender of a passport, for the deletion of a child's details, or where passport facilities have already been granted. Only the Courts have the power to do this where there is an order in force prohibiting or otherwise restricting the removal of the child from the United Kingdom.

In these circumstances, the most that can be done is to note the name of the child for a period of twelve months. If, during that time, the passport should come into the possession of the Identity and Passport Service, or another application for passport facilities for the child is made, the Identity and Passport Service can then act on the objection.

There is a port precautions scheme to prevent the unlawful and permanent removal of children abroad. It operates not through the Identity and Passport Service, but through the local Police. If the possibility of removal is **real** and **imminent**, the police may agree to circulate the child's names in an All Ports Warning to the ports of departure in England, Northern Ireland, Wales and Scotland. More information about this scheme can be obtained from a police station.

Further information on Child Abduction may also be obtained from "reunite", the International Child Abduction Centre, PO Box 7124 Leicester LE1 7XX Tel: 00 44(0) 116 2556234 (www.reunite.org).

Where the objector makes an application for a replacement passport, we should still maintain our one passport per person policy. Confirmation is required from the person who made the original application that the passport has been lost even if a caveat has been lodged against them. This is to ensure that there is not more than one valid passport in existence for the child. The objector will need to be advised to either obtain confirmation from the parent who gave the original consent, or seek legal advice about obtaining a specific issues order.

Wards of Court

A passport should not be authorised to a ward of court without either the permission of the court or the person specified in the order.

Most children subject to these orders will be entered on the Stop File Browse, and any passport applications that are received must immediately be referred to FIU. An application which indicates that a child is the subject of a wardship order, prohibited steps order restricting the child's movement out of the UK, or interdict must also be referred immediately to the FIU section for a decision on whether a passport can be issued.

Wardship Orders made prior to 14 October 1991 which awarded care and control of the child to the local authority also became Care Orders under the 1989 Act.

One passport per person

Following a careful review and consultation with interested parties, and with ministerial approval, we moved to a policy of separate passports for children from 5 October 1998.

This change of policy was carefully thought through and was made in order to:

1. improve identification,
2. prevent the unauthorised addition of children to an adult passport,
3. give better control of documents in cases of parental difference,
4. reduce potential for child abduction,
5. facilitate travel, and
6. maintain the Identity and Passport Service's efficiency and effectiveness.

The United Kingdom is not alone in operating a policy of separate passports for children and other countries that have introduced the change report positively on it. It is the recommended practice of the International Civil Aviation Organisation.

Where an application is received for a passport for a child under the age of 16 years, and it is known that the child is already included on the passport of another person, IPS should insist that the passport be submitted for the deletion of the child's details.

Where Section 3 of the application form is left blank, enquiries should be made and written confirmation received from the parent to confirm that the child has not held or been included on any other passport.

If the applicant maintains that the other parent will not relinquish the passport for deletion of the child's details the applicant should be advised that the other parent may send the passport directly to IPS so that the details can be deleted and the passport returned to the holder. If the passport holder is currently abroad they may have the details deleted at the nearest British Consulate or British Embassy. On confirmation that this has been done (e.g. production of a letter from the Consular Department confirming the child's deletion), the application may proceed.

It is essential that a child is deleted from any passport on which its name is shown before we issue a separate passport for the child. Problems arise where the child is included on both parents' passports and, for whatever reason, it is not possible to submit both passports with the application. It is not unusual for one parent to call at an office, or to send a passport in under separate cover, to have the child's details deleted.

In these cases the details should be physically deleted from the passport by ruling through the details with black ink, affixing an impression of the Agency stamp on the page, noting the stamp to confirm the child deletion and affixing the examiners initials to authenticate the amendment.

The record relating to the parent's passport should be passport noted to show that the child (name) has been officially deleted from the passport. It is essential that the record is updated so that other examiners are aware of the action that has been taken, and can confirm on the system that the child is no longer included on the parent's passport.

If the applicant still maintains that the other parent will not relinquish the passport they should be advised to seek legal advice, as IPS cannot compel the surrender of the passport, whereas the family courts do have powers to deal with this type of situation.

Where the applicant subsequently declares that the passport has been lost or stolen, in line with the LSR policy (please see Lost, Stolen and Recovered policy), an LS01 should be completed and the original application file obtained. The signature of the parental consent on the current application form must be compared against the parental consent on the original file. Where these details differ, the applicant must be advised that as they did not apply for the original passport, we require written confirmation from that person confirming the whereabouts of the original passport. The letter should be scanned for retention with the application. If the signature is the same, but the passport is declared stolen by the other parent, care must be taken not to issue a passport. Instead the applicant must be advised that we cannot issue a replacement passport and they need to seek legal advice on retrieving the passport from the other parent, if necessary through the courts.

If the applicant states that the whereabouts of the other parent are unknown, the applicant should be advised that every effort should be made to contact the other parent e.g. through relatives etc. IPS Policy is not to issue another passport to a child until we have received the appropriate confirmation that the passport is lost.

There is little point in going to court if the whereabouts of the parent is unknown because they will not be able to serve the papers on him/her. What we need is evidence that every avenue has been explored to enable contact with the missing parent. Evidence of contact with other parent's family who can confirm the same etc., and all detailed in a statutory declaration. Where the other parent is reported as deceased, a copy of the death certificate alone will be acceptable.

IPS' legal advisors strongly recommend that IPS do not become involved in cases of parental dispute in any way.

Examiners should not offer to mediate or contact the other parent.

Where IPS has incorrectly issued two passports

Where IPS has incorrectly issued two passports (whether through its own fault or not) we need to ensure that the usual "one passport per person" policy is upheld. We cannot expect individuals to achieve this for us by taking their own legal advice and potentially instituting family proceedings, any more than individuals should expect IPS to intervene where one parent deliberately withholds a child's passport from the other.

The incorrectly issued passport (i.e. the last one issued) must be recovered by IPS rather than the one that has been properly in existence for some time, particularly where the earlier issued passport is actually an adult passport with the child's name noted on it. To withdraw this would potentially unduly inconvenience the adult holder.

The member of the Customer Services Team who receives the letter complaining about the issue of a second passport to a child should write to the parent who was issued with the most recent passport and request the return of the passport. The reason we have introduced the requirement of one-person-one passport should be explained.

A maximum of three letters should be sent with the last letter being sent by registered post (guaranteed delivery).

25.5 If the passport cannot be retrieved Head Quarters Policy Section should be consulted who will consider the next action based on all the available facts.

These instructions should be strictly applied and HQ Policy Section should be consulted about any proposal to handle these cases differently. Please also see Fees – Refund of Fees regarding refunds due in these cases.

Employment abroad

There are a number of regulations relating to the employment of children and young people. In particular, care needs to be taken when there is an indication that the purpose of the child's journey is to sing, act, perform or appear in any capacity whatsoever for profit.

No child is permitted to go abroad (i.e. outside Great Britain or Northern Ireland) for the purpose of:

- Singing
- Playing (including football)
- Performing
- Taking part in any broadcast or recording to be used in a film for public exhibition

Unless

A licence has been granted for the purpose by a Justice of the Peace sitting in a Magistrates Court within the area where the child resides.

Amateur sportsmen/women, whatever their sport, who go abroad under the auspices of responsible bodies to take part in their sport, do not need a magistrate's licence provided the contests are not put on for personal gain and the proceeds are not applied to private purposes.

Where it is indicated that a child may be travelling abroad for employment, the applicant should be advised that a licence should be obtained before travel. Further advice may be obtained from the child's Local Education Authority.

Countries requiring separate passports for children

All children travelling to the U.S.A. must hold their own passports and children aged 15 or over must hold their own passports to gain entry to the Czech Republic. However, entry rules can change without notice to IPS and it is not our function to give travel advice. Customers enquiring about entry requirements should be advised to contact a travel agent or the Embassy or High Commission of the country concerned. Travel advice is also available from the FCO website www.fco.gov.uk.

Disclosure of Information

A person with parental responsibility for a child may be told that a passport has been issued to their child, or is being considered. However care must be taken that no personal information in relation to a third party (such as the other parent) is given out. It should be remembered that a child's personal information may be the same as that of the applicant – the most obvious being the child's address. When someone with parental responsibility, other than the applicant, makes enquiries into the progress of their child's passport application they can be advised that the application has been received and whether it is still being considered or if a passport has been granted. However, personal details of the other parent (such as their passport number or the address to which the passport is being sent) must not be disclosed.

Information regarding an application for a 16 or 17 year old must not be disclosed to anyone other than the applicant without the consent of the applicant.

Definition of 'Father' for status purposes

Section 9 of the Nationality, Immigration and Asylum Act 2002, which amends the British Nationality Act 1981 in respect of illegitimate children, comes into force on 1 July 2006. This provision re-defines who should be regarded as a child's parents for the purposes of the 1981 Act and makes some other minor changes to the 1981 Act. By doing so, it enables illegitimate children to derive a nationality claim or entitlement from their fathers in the same way as if they had been born legitimate.

Section 9, the effects of which are summarised below, applies only in respect of persons born on or after 1 July 2006. In all other cases, the pre-1 July 2006 provisions of the BNA 1981 will continue to have effect.

Definitions of Mother and Father

Section 50(9) of the 1981 Act, which defines the terms father and mother for the purposes of that Act, has been replaced by new definitions.

From 1 July 2006: –

- a child's mother is the woman who gives birth to the child
- a child's father is: the husband of that woman (if they are married at the time of the child's birth),

or

the man who is treated as the father under section 28 of the Human Fertilisation and Embryology Act 1990

or, if neither of the above apply, any man who can satisfy certain prescribed requirements as to proof of paternity.

The prescribed requirements for the purposes of c. above are set out in the British Nationality (Proof of Paternity) Regulations 2006, which also came into force on 1 July. The Regulations provide that proof that a man is the father of a child is:

- A birth certificate, issued within one year of the birth, which names that man as the father, or
- Other evidence, such as (but not limited to) DNA test reports and court orders, which the Secretary of State considers to be relevant and on the basis of which he is able to conclude that the relationship is one of father and child.

Only a birth certificate naming the father can be accepted by IPS staff as proof of paternity without reference to the Border Immigration Agency. Any application where alternative evidence is provided must be referred to Head Quarters Operational Policy Team to consult Nationality Group.

Note that, for nationality purposes, proof of paternity can be considered only where a man cannot otherwise be regarded as the father under paragraphs 4 a and b above (Section 50(9A)(a) and (c) of the amended Act). Therefore, if the mother is married at the time of the birth, her husband at that time is the child's father for nationality purposes even if there were proof that another man was the natural father.

The text of Section 9 of the 2002 Act and of the British Nationality (Proof of Paternity) Regulations is attached below:

Nationality, Immigration and Asylum Act 2002

9 Legitimacy of child

(1) The following shall be substituted for section 50(9) of the British Nationality Act 1981 (interpretation: child) –

"(9) For the purposes of this Act a child's mother is the woman who gives birth to the child.

(9A) For the purposes of this Act a child's father is –

- (a) the husband, at the time of the child's birth, of the woman who gives birth to the child, or
- (b) where a person is treated as the father of the child under section 28 of the Human Fertilisation and Embryology Act 1990 (c.37) (father), that person, or
- (c) where neither paragraph (a) nor paragraph (b) applies, any person who satisfies prescribed requirements as to proof of paternity.

(9B) In subsection (9A)(c) "prescribed" means prescribed by regulations of the Secretary of State; and the regulations –

- (a) may confer a function (which may be a discretionary function) on the Secretary of State or another person,
- (b) may make provision which applies generally or only in specified circumstances,
- (c) may make different provision for different circumstances,
- (d) must be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9C) The expressions "parent", "child" and "descended" shall be construed in accordance with subsections (9) and (9A)."

(2) In section 3(6) of that Act (registration of minor as British citizen) –

- (a) after paragraph (a) insert "and",
- (b) the word "and" after paragraph (b) shall cease to have effect, and
- (c) paragraph (c) (illegitimate child) shall cease to have effect.

(3) In section 17(6) of that Act (registration of minor as British overseas territories citizen) –

- (a) after paragraph (a) insert "and",
- (b) the word "and" after paragraph (b) shall cease to have effect, and
- (c) paragraph (c) (illegitimate child) shall cease to have effect.

(4) Section 47 of that Act (legitimated children) shall cease to have effect.

(5) In Schedule 2 to that Act (persons otherwise stateless) –

- (a) in paragraph 1(1)(b) (person born in United Kingdom), the words "he is born legitimate and" shall cease to have effect, and

(b) in paragraph 2(1)(b) (person born in British overseas territory), the words "he is born legitimate and" shall cease to have effect.

The British Nationality (Proof of Paternity) Regulations 2006

1. These Regulations may be cited as the British Nationality (Proof of Paternity) Regulations 2006 and shall come into force on 1st July 2006.
2. The following requirements are prescribed as to proof of paternity for the purposes of section 50(9A)(c) of the British Nationality Act 1981 –
 - (a) the person must be named as the father of the child in a birth certificate issued within one year of the date of the child's birth; or
 - (b) the person must satisfy the Secretary of State that he is the father of the child.
3. The Secretary of State may determine whether a person is the father of a child for the purpose of regulation 2(b), and for this purpose the Secretary of State may have regard to any evidence which he considers to be relevant, including, but not limited to –
 - (a) DNA test reports; and
 - (b) court orders.

Legitimation

For children born on or after 1 July 2006, section 47 of the BNA no longer has any effect; a marriage that takes place after the birth has no effect on the child's nationality. In such cases proof of paternity as described in paragraph 5 above would be needed to establish a nationality claim depending on the father. However, a child born before 1 July 2006 may still be legitimated if his or her parents later marry (even if the marriage takes place after 1 July).

Please also see Legitimation and Domicile.

Reduction of statelessness

Paragraphs 1 and 2 of Schedule 2 (persons born in the UK or in a British overseas territory) have been amended to allow for an illegitimate child to claim British nationality from the father.

Section 4 and parental responsibility

Following the review of the children's policy it has been agreed that section 4 will need to be completed for all first time adults and all children. In the latter case, this change was agreed to aid examiners in making an informed decision on whether or not the person giving consent has parental responsibility or joint parental responsibility, and is being introduced at the request of examiners. This has also been introduced to aid ION staff when establishing identity.

If the examiner is unable to make a decision regarding whether or not the individual has parental responsibility they can of course request further information or refer the case to their local Policy Networking Group Officer via their line manager.

Annex A - Children's policy questions and answers

Questions & answers

Q - Parental Consent in Northern Ireland – Does this mean born and registered in Northern Ireland, or born, registered and resident in Northern Ireland?

A - This means born and registered in Northern Ireland.

Q - Surrogate parents – who gives consent?

A - Section 30 of the Human Fertilisation and Embryology Act 1990 came into force on 1.11.1994. If a child is born as a result of a surrogacy arrangement the genetic parent(s) will be able to apply to the courts for a Parental Order, within 6 months of the child's birth and have the child's birth re-registered. Once a Parental Order has been made the Identity and Passport Service may accept that the parents named has parental responsibility and can consent to the issue of passport facilities for the child. The General Registrar's Office (GRO) will issue a birth certificate detailing the parents as those on the Parental Order. Regarding the child's nationality, information on this has been updated. A Parental Order confers parental responsibility to the persons named on the order, but has no affect on the national status of the child.

Q - If an application is received from someone who does not have parental responsibility do we have to have a new application form countersigned by a person with parental responsibility?

A - Provided the application is otherwise in order, and there are no concerns, a letter from the person with parental responsibility giving their consent to a passport will be acceptable.

Q - Testamentary Guardian, if a will has gone through probate, do we still need the statutory declaration?

A - If a will and probate certificate is submitted, and there is evidence to establish that there is no one else with parental responsibility, this can be accepted once referred to a line manager.

Q - Can an expired interim care order be accepted along with a letter from the local authorities confirming another order has been applied for?

A - No – due to the uncertainty of future arrangements, IPS will not normally accept an application made on behalf of such a child subject to such circumstances, we will need to see the new order or consent from someone with parental responsibility.

Q - If a child is in care under Section 31 (full care order) and the form is signed by a parent, countersigned by an acceptable countersignature, can we accept a supporting letter from the Director of Social Services or does the form need to be completed again?

A - Provided that everything else is in order and we have enough to issue a passport, a supporting letter can be accepted. The letter should state that they consent to the child having a passport, include details of the section of the Act the child is in full care under. The letter should also confirm where the passport should be returned.

Q - Why do we issue full adult passports to 16 year olds when legally 16 and 17 year olds are under age?

A - Passport issuing authorities world-wide work to the standards and conventions of the International Civil Aviation Organisation. There is a long-standing convention that children when they reach the age of 16 should be issued with their own full validity passport – Immigration authorities and carriers work to this convention. The international convention stems largely from practicalities. Firstly, a five-year passport for children minimises the risk of appearance changing significantly from the passport photograph: this ceases to become a significant issue once the child becomes sixteen. Secondly, requiring children's passports to be renewed every five years reduces the risk of child abduction. Also, minors enjoy certain rights under our own law once they reach 16 years.

Q - How can we proceed with an application for a child where the mother is unable to obtain a countersignatory who has known her for the 2 year period but the father can, however, only the mother has parental responsibility?

A - In these circumstances the easiest way forward will be for the father to apply for the passport on behalf of the child and for the mother to enclose a letter giving her consent.

Q - How do we proceed where the parents of an adopted child declare the child has previously held a passport before adoption, but they have lost it, or were not given it?

A - Once the child has been adopted the new name is the child's legal name for all purposes and the adopters become the legal parents. In most cases we would not be aware of the child's previous name and there is no legal requirement for a person to let us know the details of the adoption or enter the details on the application form.

The main issue is what to do if we know the child has had a passport in the previous name, we should attempt to update our records so the passport is reported as missing. The adoptive parents are the only ones with parental responsibility (unless of course a subsequent court order is issued) and there is usually no further contact with the original parents. Adoptions are confidential and we cannot ask the adoptive parents to seek out the original parents to retrieve the passport or confirm its loss. In these circumstances the adoptive parent will need to complete and sign the LS Form and submit a full adoption certificate showing details of parents and confirming the date the adoption took place (this will ensure that the adoption took place after the issue of the unavailable passport).