



Home Office

Royal Prerogative

Version 6.0

This guidance tells examiners about the powers used to issue British passports in the UK and overseas under the Royal Prerogative, how to apply those powers, and compensation and liability

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About: Royal Prerogative

This guidance tells examiners about:

- the powers used to issue British passports in the UK and overseas under the Royal Prerogative
- how to apply those powers
- compensation and liability

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Guidance & Delivery, Operating Standards.

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

Publication

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

- version **6.0**
- published for Home Office staff on **27 September 2022**

Changes from last version of this guidance

This guidance has been updated to reflect the change in our sovereign from Her Majesty Queen Elizabeth II to His Majesty King Charles III.

Related content

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Royal Prerogative: entitlement to a passport

This section tells HM Passport Office staff which customers may be issued a British passport under the Royal Prerogative.

There is no entitlement or statutory right to have access to a passport. There is no statute law governing the granting, refusal, and use of British passports, but there is discretion to refuse or withhold in certain circumstances as agreed [by Parliament](#). The decision to issue, withdraw, or refuse a British passport in the UK is at the discretion of the Secretary of State for the Home Department (the Home Secretary) under the Royal Prerogative. In overseas posts until April 2014 this was at the discretion of the Secretary of State for Foreign and Commonwealth Affairs under the Royal Prerogative.

The Royal Prerogative is also exercised by Lieutenant Governors of the Channel Islands and the Isle of Man, and by Governors and Administrators of British Overseas Territories.

Operational responsibility for the application of the criteria for issuance or refusal is a matter for the His Majesty's Passport Office acting on behalf of the Home Secretary.

A decision to refuse or withdraw a passport must be necessary and proportionate. The decision to withdraw or refuse a passport and the reason for that decision must be conveyed to the applicant or passport holder. The disclosure of information used to determine such a decision will be subject to the individual circumstances of the case.

The decision to refuse or to withdraw a passport under the public interest criteria will be used sparingly. The exercise of these criteria will be subject to careful consideration of a person's past, present or proposed activities.

Issuing a passport

Passports are issued when the Home Secretary is satisfied with:

- the identity of an applicant
- the British nationality of applicants, in accordance with relevant nationality legislation
- there being no other reasons (as set out below) for refusing a passport

His Majesty's Passport Office may make any checks necessary to ensure that the applicant is entitled to a British passport.

Refusing or withdrawing a passport

A passport application may be refused or an existing passport may be withdrawn.

We can refuse or withdraw passport facilities to:

- a [minor whose journey was known to be contrary to a court order](#), to the wishes of a parent or other person or authority in whose favour a residence or care order had been made or who had been awarded custody; or care and control; or
- a person:
 - [for whose arrest a warrant](#) had been issued in the United Kingdom, or a person who was wanted by the United Kingdom police on suspicion of a serious crime
 - [who is the subject of a court order](#), made by a court in the United Kingdom, or any other order made pursuant to a statutory power, which imposes travel restrictions or restrictions on the possession of a valid United Kingdom passport
 - [who is the subject of bail conditions](#), imposed by a police officer or a court in the United Kingdom, which include travel restrictions or restrictions on the possession of a valid United Kingdom passport
 - [who is subject of an order](#) issued by the European Union or the United Nations which prevents a person travelling or entering a country other than the country in which they hold citizenship
 - [who is subject of a declaration](#) made under section 15 of the Mental Capacity Act 2005

A person may be prevented from benefitting from the possession of a passport if the Home Secretary is satisfied that it is in the public interest to do so. This may be the case where a person:

- [has been repatriated from abroad at public expense](#) and their debt has not yet been repaid (this is because the passport fee supports the provision of consular services for British citizens overseas)
- whose past, present or proposed activities, actual or suspected, are believed by the Home Secretary to be so undesirable that the grant or continued enjoyment of passport facilities is [contrary to the public interest](#)

There may be circumstances in which the application of legislative powers is not appropriate to the individual applicant but there is a need to restrict the ability of a person to travel abroad. The application of discretion by the Home Secretary will primarily focus on preventing overseas travel.

There may be cases in which the Home Secretary believes that the past, present or proposed activities (actual or suspected) of the applicant or passport holder should prevent their enjoyment of a passport facility whether overseas travel was or was not a critical factor.

How HM Passport Office apply Royal Prerogative

This section tells HM Passport Office staff about the practical application of the Royal Prerogative, and about some of the system matches or documents you may see when examining passport applications.

You, the examiner, must understand how the Royal Prerogative affects how we process passport applications.

Court orders or caveats for children

Any Court Orders on behalf of a child that relate to restrictions on the child's movement or that either give or restrict parental responsibility must accompany the application, unless the child is in the care of the local authorities. Orders other than Care Orders should be made under section 8 or section 31 of the Children Act 1989.

This section of the prerogative also applies to any caveats put in place by one or more individuals exercising parental responsibility to control the issue of a passport to a child. Care must be taken to fully read any Court Orders or requests for caveats and must be dealt with in conjunction with the relevant section of the Authorisation and consent guidance.

If an application is received and there is already a court Order or caveat in place there should be a watchlist marker in place and these must be dealt with in line with guidance for:

- DAP matches and watchlist checks
- Matches and watchlists on AMS
- Warnings

Court or other orders, arrest warrants and bail conditions

Examination staff must not deal with cases relating to persons who are subject to arrest warrants, court or other orders, or bail conditions that prevent them holding a passport or travelling.

HM Passport Office will be informed of these individuals and any applications received will be referred to the Counter Fraud team (CFT).

If an application is received where there is already a watchlist marker in place this must be dealt with in line with relevant guidance on warnings, matches and watchlists.

Any enquiries received from UK enforcement agencies or another third party in relation to the creation and/or the removal/maintenance of any watchlist markers must be referred immediately to your local CFT.

Repatriation debts

Repatriation relates to but is not limited to individuals who have served a custodial sentence overseas or are returning to serve out the remainder of their sentence in the UK.

Individuals returning to the UK in such circumstances often have limited or no means of financing their return and so the cost is covered at the public's expense.

It can also relate to British Citizens who for whatever reason require returning to the United Kingdom but are unable to finance their return and seek consular assistance again with the cost being covered at the public's expense.

To prevent the individual leaving the UK without repaying their debt a watchlist marker can be put in place to prevent a passport being issued to facilitate travel without the relevant consent. These cases are dealt with by London CFT and further guidance on what to do if an enquiry is received in relation to this subject can be found in the Prisoners policy.

Public interest

Any circumstances where passport facilities are to be refused or withdrawn because a person's activities, actual or suspected, are believed by the Home Secretary to be so undesirable that the grant or continued enjoyment of passport facilities is contrary to the public interest must be dealt with by the Policy Team in conjunction with CFT.

This criterion will usually concern matters of National Security and if any enquiries are received in relation to this section they must immediately be referred to the Policy Team via your line manager.

Compensation and liability

As passport facilities are granted at the discretion of the Secretary of State exercising the Royal Prerogative, there is no contractual relationship between the HM Passport Office and a passport applicant.

Consequently, a dissatisfied customer would have to claim for negligence rather than under the law of contract and, that being so, would not be able to rely directly on those authorities which make it clear that damages for loss of enjoyment of a holiday are available in an action for breach of contract.

There may be no authority for an award of damages for loss of enjoyment and distress in an action for the tort of negligence. However, in certain circumstances there must, at the very least, be a possibility that a court would award general damages, which would include an element for loss of enjoyment and distress.

In the absence of any legal authority on the matter, HM Passport Office is justified in maintaining its policy that only actual financial loss will be reimbursed (see Compensation).

Related content

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