



Home Office

# Assisted reproduction

Version 4.0

His Majesty's Passport Office guidance on how to deal with applications involving assisted reproduction

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# About: Assisted reproduction

This guidance tells His Majesty's Passport Office staff:

- what assisted reproduction is and the impact it has on passport applications
- why a passport application involving surrogacy (an example of assisted reproduction) has different requirements
- how to establish a customer's parents to confirm their claim to British nationality and legal parentage
- how to deal with a passport application involving assisted reproduction, including what documents are needed to establish nationality, identity and entitlement to a British passport

If you are dealing with a passport application involving surrogacy, you must use the surrogacy guidance.

## 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, email the Guidance team.

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

## Publication

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

- version **4.0**
- published for Home Office staff on **20 September 2023**

## Changes from last version of this guidance

This guidance has been updated to reflect the change in name for the Guidance team.

### Related content

[Contents](#)

# Assisted reproduction and passport applications

This section tells HM Passport Office staff what assisted reproduction is, the laws and legislation around assisted reproduction and how a child's birth certificate may look if the child's second parent is male or female or if a sperm donor is included.

For the purpose of a British passport application, a child conceived through assisted reproduction is treated the same as a natural conception unless the child was born using a surrogate mother.

## What is assisted reproduction

Assisted reproduction is when a person or couple get pregnant (conceive) with the assistance of medical intervention (treatment). Examples of assisted reproduction are:

- In vitro fertilisation (IVF) - one of the most commonly used and successful treatments available - suitable for many people
- Intrauterine insemination (IUI) - used by people who are using donated sperm in their treatment, commonly used by single women and same-sex female couples but can also be used by opposite-sex couples

The different treatments available can involve the use of donated eggs, sperm and embryos. If donated egg and sperm are used, it can have an impact on a child's claim to British nationality and who is recognised as their legal parent.

## Assisted reproduction: surrogacy

Surrogacy is another example of assisted reproduction. It involves a third party (surrogate mother) and is treated differently for the purpose of a passport application. If you (the examiner) are dealing with an application involving surrogacy, you must use the surrogacy guidance.

## Assisted reproduction: fraud concerns

You must refer the application to the Child Protection and Safeguarding team through the local Counter Fraud team, if you have any fraud or safeguarding concerns about an assisted conception or surrogacy case. For example, you may discover the parents are trying to hide a surrogacy or an overseas adoption.

## Assisted reproduction: UK legislation

The UK legislation that regulates assisted reproduction in the UK is:

- the [Human Fertilisation and Embryology Act 1990](#)

- the [Human Fertilisation and Embryology Act 2008](#)

Under UK legislation, the woman who gives birth to the child is recognised as the child's legal mother, at the time of the child's birth. However, who can be recognised as the child's second legal parent was amended for a child conceived on or after 6 April 2009.

## UK legislation: who can be a second legal parent

If a child was conceived before 6 April 2009, only a male parent (their father) can be legally recognised as their second legal parent.

After the introduction of the [Human Fertilisation and Embryology Act 2008](#), this was changed. Now a second legal parent of a child (conceived on or after 6 April 2009) can be either a:

- male parent (child's father)
- second female parent (not the child's birth mother)

You must confirm a child's legal parents for nationality and parental responsibility, when issuing a passport.

## UK legislation: UK issued full birth certificate

The introduction of the Human Fertilisation and Embryology Act 2008 also amended the Registration of Births and Deaths Regulations 1987 to allow a second female parent to be named on their child's UK issued birth certificate.

This means, a child's birth registered on or after 1 September 2009, can have a second female parent named on their birth certificate and be recognised as the child's legal parent (for parental responsibility and nationality purposes).

This change in legislation, means a child's UK issued birth certificate would show:

- the child's birth mother in the **MOTHER** section
- in space 4, a:
  - **FATHER** (if a male parent is named or there is no other parent named)
  - **PARENT** (if there is a second female parent that is not the birth mother)

See: UK Knowledge Base for a sample of a UK birth certificate.

## Assisted reproduction: legislation outside the UK

Some countries have specific legislation on who is recognised as the legal parents for the purposes of parental responsibility and nationality.

For example, Canada gives legal rights to the person who donated the egg or sperm, involved in the assisted reproduction treatment. This means a donor may have to

provide consent to a passport being issued and could be named on the birth certificate.

Due to the different legislations in the UK and other countries, you must take extra care if a child is conceived using assisted reproduction, and:

- the application is received from outside the UK
- the child is habitually resident (lives somewhere outside the UK regularly)

## Assisted reproduction: overseas issued birth certificate

If an application has a birth certificate issued by the correct overseas authority (see Knowledge Base for examples of overseas birth certificates) you must check who is named on the birth certificate as a parent, as some countries:

- allow 2 female parents to be named on a birth certificate – however, depending on the country of birth, the certificate may show one of the female parent's names under 'father'
- include the sperm donor on the birth certificate – this can mean that person may have legal parentage and rights for the child
- may hide an adoption – if neither parent is a biological parent of the child, you can look at the documents provided to see:
  - if any official amendments have been made to a customer's birth certificate
  - who authorised the birth certificate (for example, in many countries, adoption certificates are issued by a central office or by the courts)

If you have any concerns or suspect an application involves an adoption, you must take care, as the customer may be unaware, they are adopted. See adoption guidance to deal with the application.

### Related content

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# Assisted reproduction: confirm a child's legal parent

This section tells HM Passport Office staff, who is recognised as a child's parent (conceived using assisted reproduction) for consent (parental responsibility) and nationality purposes including a second female parent.

When issuing a passport, we must confirm who a child's legal parents are for nationality and parental responsibility.

## Assisted reproduction: consent to issue a passport

When you, the examiner, receive a passport application for a child conceived using assisted reproduction, you must check if the customer (who has given their consent) has parental responsibility. This will depend on if they:

- are the child's legal parent
- have parental responsibility because they are named on the child's full birth certificate

To confirm you can accept a person's consent, you must follow the parents and guardians: consent guidance.

## Assisted reproduction: claim to British nationality

A person's nationality is defined by legislation (for example, the British Nationality Act 1981). Having a legal parent who has British nationality\_or lives in the UK, does not guarantee the child (conceived using assisted reproduction) is entitled to British nationality. Their eligibility will depend on:

- where and when they were born
- who is recognised their legal parent (for example, is it father named on the birth certificate or their mother's husband)
- what is their legal parent's nationality

## Nationality: child born before 6 April 2009

If you must confirm the British nationality status of a child born before 6 April 2009 (conceived using assisted reproduction), you must follow the definition of parents for nationality purposes guidance. This will tell you how to confirm who is recognised as their mother and father for nationality purposes.

UK legislation confirms:

- a child's legal mother and recognised as the child's mother for nationality purposes, is the woman who gives birth to the child following assisted



reproduction treatment – it does not matter where the child was born or conceived using assisted reproduction

- if the child's second legal parent is female, the child must have been conceived on or after 6 April 2009 – a second female parent named as a child's parent not their birth mother (before 6 April 2009), is not recognised as the child's parent for nationality purposes

If you have any fraud, risk indicator, child protection, safeguarding or vulnerability concerns, you must refer the application to the Counter Fraud team (CFT).

## Nationality: child conceived on or after 6 April 2009

A change in UK legislation, which came into force on 6 April 2009, changed who can be recognised as a child's second legal parent. This legislation:

- did not change who a child's legal mother and recognised as the child's mother for nationality purposes – this is still the woman who gives birth to the child following assisted reproduction treatment – it does not matter where the child was born or conceived using assisted reproduction
- now allows a child's second legal parent to be a second female parent (not their birth mother) and be recognised as their parent for nationality purposes, as long as the child was conceived on or after 6 April 2009

The change made to UK legislation, confirms (for British nationality purposes) a second legal parent for a child conceived, using assisted reproduction, on or after 6 April 2009, is:

1. The mother's husband or male civil partner (if any) at the time of the treatment but only if they consented to the treatment.
2. The mother's wife or female civil partner (if any) at the time of the treatment, if they consented to the treatment under [section 42 of the Human Fertilisation and Embryology Act 2008](#) (a second female parent, not the birth mother).
3. If 1 or 2 do not apply – any person who is treated as the father under section 28 of the Human Fertilisation and Embryology Act 1990 or section [35 or 36 of the Human Fertilisation and Embryology Act 2008](#).
4. If 1, 2 or 3 do not apply – a person who is treated as a parent of the child under [section 43 of the Human Fertilisation and Embryology Act 2008](#) (a second female parent, not the birth mother).
5. If 1, 2, 3 or 4 do not apply – a person who is proven to be the father by either:
  - a birth certificate naming him as the father (issued within 12 months of the birth of the child)
  - other volunteered evidence, such as a court order, birth certificate or DNA test report that shows paternity

You must ask for additional evidence (for example, a letter or medical documents from the clinic where the fertility treatment took place) to confirm a child was conceived after 6 April 2009 (using assisted reproduction treatment), if:

- the child's claim to British nationality is through a second female parent

- the child was born before 6 January 2010 (9 months after 6 April 2009)

## Mother's husband, wife or civil partner did consent

If you must establish the British nationality status of a child, conceived using assisted reproduction on or after 6 April 2009, through their second legal parent and the child's mother is married or in a civil partnership, at the time of the assisted reproduction treatment. If her husband, wife or civil partner did consent to the treatment, they are recognised as the second legal parent (for nationality purposes).

Even if documents are provided (for example, voluntarily supplied DNA evidence or a birth certificate naming another person) to confirm they are not biologically related to the child, they are still the child's second legal parent (for nationality purposes).

You must refer the application to:

- an appropriately trained examiner or your operational team leader (OTL) if the marriage certificate causes doubts over the validity of marriage (if it's relevant to the claim), or if the marriage contradicts a named parent
- the Counter Fraud team (CFT) if there is any fraud or safeguarding concerns

## Mother's husband, wife or civil partner did not consent

If a child is conceived (using assisted reproduction) on or after 6 April 2009, British nationality status is through their second legal parent and the child's mother is married or in a civil partnership, at the time of the assisted reproduction treatment. Her husband, wife or civil partner must have consented to the treatment.

If her husband, wife or civil partner did not consent to the treatment, they are not recognised as the second legal parent (for nationality purposes). This is confirmed in the Human Fertilisation and Embryology Acts and nationality legislation.

The customer must prove the mother's legal spouse did not consent to the fertility treatment (assisted reproduction treatment) if they want us to consider someone else as the child's legal parent for nationality purposes.

The husband, wife or civil partner's consent to the treatment, could be found in the documents provided to support the application. For example, the medical documents from the fertility clinic or any parental agreements.

## Mother: not married or not in a civil partnership

If a child's, conceived (using assisted reproduction) on or after 6 April 2009, British nationality status is through their second legal parent and the child's mother is not married or in a civil partnership. You must check the documents to see if the treatment:

- took place in the UK or overseas
- involved a sperm donor

If the treatment did not involve a sperm donor, you must look at who is named on the documents as the second legal parent of the child. For example:

- the child's birth certificate
- documents from the clinic about any fertility treatment to conceive took place:
  - a signed letter or forms
  - medical documents

## Assisted reproduction treatment took place in the UK

If a child's, conceived (using assisted reproduction) on or after 6 April 2009, British nationality status is through their second legal parent and the child's mother is not married or in a civil partnership.

It is important to confirm that if a sperm donor was involved in the assisted reproduction treatment, that the treatment took place at a UK licensed clinic. If it did not, the sperm donor may be recognised as the child's legal parent.

If the assisted reproduction treatment took place at a UK licensed clinic and involved a sperm donor, the donor is not recognised as the legal parent of the child and will not be named on the birth certificate. In this case, you must check if the person named on the application and documents is the child's parent (for nationality purposes). Documents to support this can be:

- a birth certificate naming both the birth mother and the second legal parent
- evidence of treatment in a UK licensed clinic (for example, a letter from the clinic where the treatment took place or hospital records)
- a parenthood agreement signed by both the birth mother and the second legal parent before the treatment is started

If the assisted reproduction treatment involved a sperm donor and did not take place at a UK licensed clinic (for example, it was a private arrangement). The sperm donor is the legal parent of the child, if the mother is not married or in a civil partnership at the time of conception and he is named on the birth certificate.

## Assisted reproduction treatment took place overseas

If a child's, conceived (using assisted reproduction) on or after 6 April 2009, British nationality status is through their second legal parent and the child's mother is not married or in a civil partnership.

If the assisted reproduction treatment involved a sperm donor and took place outside the UK, the donor may be recognised as the legal parent of the child, due to differences in legislation.

You must consider if it is possible a sperm donor is the child's legal parent by checking the Knowledge Base for any assisted reproduction considerations for the country the child is born in, if the sperm donor:

- is named on the birth certificate
- is named on any documents from the fertility clinic, for example in letters or forms signed at the clinic, medical documents from the clinic

If the sperm donor is not named on any documents provided, you must check if the person named on the application and documents is the child's parent (for nationality purposes).

## **Related content**

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# Assisted reproduction: dealing with an application

This section tells HM Passport Office examiners how a customer completes an application, how to examine an application involving assisted reproduction, what to do if the parent's details on the application are different to the child's birth certificate and what to do if there is no claim to a British passport.

Customers can apply online or use a paper application form, to apply for a passport involving assisted reproduction. [GOV.UK](https://www.gov.uk) tells customers:

- they must provide the parent's details as they appear on the birth certificate
- depending on their application, they need to tell us their child was born through sperm donation (an assisted reproduction treatment)
- what documents they must send

## Assisted reproduction not declared on application

You, the examiner, may get an application where the documents provided suggest a customer was conceived using sperm donation (an assisted reproduction treatment), but it was not declared on the application.

The information to show assisted reproduction took place may come from the customer's birth certificate and Knowledge Base. For example, where there are two female parents named on the customer's birth certificate or there is a third party named on the documents provided.

If this is the case, you must remember assisted reproduction helps the intended parents to conceive a child. The intended mother of the child is the birth mother, and if applicable, her husband, wife or civil partner is the child's second legal parent (see definition of parent (for nationality purposes) guidance).

This is unlike surrogacy, where there is third party involvement (a surrogate mother), who gives birth to the child.

You must look at the documents provided to support the customer's application (for example, their birth certificate) to confirm:

- their claim to British nationality through their parent
- the person providing consent to the issue of a British passport has parental responsibility

However, you must ask for further documents to confirm the customer's legal parents and claim for a British nationality, if:

- you are unable to confirm a customer's parents for nationality and parental responsibility purposes
- there are doubts or concerns over the validity of the documents

If you must ask a customer for more documents, you must deal with them sensitively because they may be unaware:

- they were conceived using assisted reproduction
- that if a sperm donor was involved, they may be recognised as the second parent for nationality purposes and have legal parentage and rights over the child, that can impact other things relating to the child (for example a name change)

If you have any safeguarding or fraud concerns, you must refer the application to the Counter Fraud team (CFT).

## Dealing with an application: customer born in the UK

If the customer was conceived through sperm donation and born in the UK, we do not need to know they were conceived through sperm donation.

A birth certificate issued by the UK authorities (for example, the General Register Office) must be used to confirm the child's legal parents.

## Dealing with an application: customer born outside the UK

If the customer was conceived through sperm donation and born outside the UK, we may need to know they were conceived through sperm donation. This depends on if the customer's claim to British nationality is through their mother or second legal parent.

If a claim to British nationality is reliant on their mother, we do not need to know they were conceived through sperm donation.

If a claim to British nationality is reliant on their second legal parent (father or second female parent) and documents show assisted reproduction took place, you must see who is recognised as their legal second parent.

When looking at the documents provided, you must consider any overseas legislation that can apply and affect the application (for example, a sperm donor has parental rights). You must take care to make sure you have all the relevant documents needed.

If this is not clear from the information provided, you must ask for further documents to confirm who is the customer's second legal parent.

## Assisted reproduction: Application Management System

When dealing with an application involving a child conceived using assisted reproduction on the Application Management System (AMS), you must:

1. Carry out a watchlist check required, for example, on the child and parents.
2. Confirm the child's and their parent's nationality, identity and entitlement to a passport (in line with this and any other nationality guidance).
3. Confirm the identity of the person applying and confirm they have the relevant authorisation and consent to apply for a passport on the customer's behalf:
  - you must check if consent is required from more than one person if the application involves a change of details or an overseas law
4. Check:
  - the overseas threat assessment is correct
  - the relevant overseas threat checks are completed
  - all the required documents have been provided and are original, from a reliable source or have been sent in using Local Services (see Knowledge Base)
  - if a customer confirms documents are not available, you must follow supporting documents are not available
  - the suspect document checks have been completed on the relevant documents
  - the parent's details on the application match the birth certificate (if not, refer to parent's details appear different to the birth certificate)
5. Check for any assisted reproduction considerations for the country the child is born in (see Knowledge Base).
6. Check for any safeguarding (child protection), vulnerability concerns and risk indicators before you issue a passport:
  - if you have any fraud or safeguarding concerns, you must refer the application to the CFT
  - there may be country specific concerns and requirements (see Knowledge Base)
7. Add a case note to show all the actions and decisions you have made.

You must:

- issue a passport (if you are satisfied from the information and evidence the child is entitled to a British passport and there are no safeguarding, nationality, identity, entitlement or vulnerability concerns)
- refer to decision making if the child does not appear to have a claim

## Assisted reproduction: Digital Application Processing system

When dealing with an application involving a child born through surrogacy on the Digital Application Processing (DAP) system, you must:

1. Carry out any watchlist checks required, for example, on the child and parents.
2. Check:

- the overseas threat assessment is correct
  - the relevant overseas threat checks are completed
  - all the required documents have been provided and are original, from a reliable source or have been sent in using Local Services (see Knowledge Base)
  - if a customer confirms documents are not available, you must follow supporting documents are not available
  - the suspect document checks have been completed on the relevant documents
  - the parent's details on the application match the birth certificate the overseas threat assessment is correct
3. Check for any assisted reproduction considerations for the country the child is born in (see Knowledge Base).
  4. Check for any safeguarding (child protection), vulnerability concerns and risk indicators before you issue a passport, as:
    - if you have any fraud or safeguarding concerns, you must refer the application to the CFT
    - there may be country specific concerns and requirements (see Knowledge Base)
  5. Confirm the child's and parents' nationality, identity, and entitlement to a passport (in line with this and any other nationality guidance).
  6. Confirm the person, who has given consent to the issuing of the passport, can apply for a passport on the customer's behalf and their identity and has parental responsibility.
  7. Case note to show all the actions and decisions you made on the appropriate tasks.
  8. Continue to process the application. For example, any other tasks or issue a passport (if you are satisfied from the information and evidence the child is entitled to a British passport and there are no safeguarding, parental responsibility, nationality, identity, entitlement or vulnerability concerns).

If you are unsure how to deal with an application involving assisted reproduction or DAP does not have the functionality to process some of these application types (for example, does not have the correct letter to be sent to the customer), you must:

1. Select **I can't do this right now**.
2. Add a case note to explain why you cannot deal with the application.

This will send the application to your operational team leader (OTL). The OTL will manage the application on DAP, using DAP team leader actions guidance.

## Assisted reproduction applications and DNA

You must not insist on DNA evidence from a customer, as we do not have statutory power to demand it. DNA may not be the correct evidence to confirm a child's parents for nationality purposes, as a child's father can be the mother's husband rather than the biological father.

If additional evidence is needed and the customer volunteers DNA evidence, you must follow the DNA testing for UK and overseas applications guidance.



Any DNA evidence must be considered together with the definition of parent for nationality purposes guidance.

## Parent's details are different to the birth certificate

We need the parent's details on a customer's application and birth certificate to match so we can confirm who is the customer's mother and father for nationality and parental responsibility purposes. This means the:

- birth mother (on the birth certificate) must have their details in the box 'mother or parent 1'
- second parent (father or second female parent) must have their details in the box 'father or parent 2'

If a customer tells us they do not want to fill in section 4 because of the designations (labels of) mother/parent 1 and father/parent 2, you must tell them we need the information to confirm:

- their claim to British nationality is taken through the correct parent
- we have the correct consent to the issuing of a passport (for example, from a parent with parental responsibility)

If the parent's details on a customer's application do not appear in the same order as their birth certificate, you must:

- follow change of parent details: possible customer error guidance on DAP
- ask the customer to complete a new application form with the parent's details in Section 4 matching the customer's birth certificate on AMS

If the parent's details on a customer's application and birth certificate are not the same. You must look to see if we need further documents to confirm their identity. For example, the second legal parent has a different surname on documents, you must ask for evidence of a change of name that links other documents to the application.

This information is required so we can confirm:

- a claim to British nationality is taken through the correct parent
- we have the relevant consent to the issuing of a passport, for example, from a parent with parental responsibility

## A birth certificate names two female parents

You must confirm who is the birth mother and second female parent (if there are two female parents named on a customer's birth certificate). You must check the customer's application matches their birth certificate and any documents they provided. This is to make sure the customer's claim to British nationality is established through the correct parent.

## A birth certificate names two male parents

If there are only male parents named on a customer's birth certificate, you must confirm that their details on the customer's application matches their birth certificate and any documents provided. If the documents show:

- the customer was adopted or born through surrogacy, you must follow the adoption or surrogacy guidance
- no female parent (mother) and just a male parent (father) named, you must look at Knowledge Base to see if there are any assisted reproduction considerations for the country the child was born in

## Decision making: no claim or withdrawing

You must not automatically reject a passport application involving assisted reproduction, if you are:

- unable to determine a child's claim to British nationality (for example, the father is a British citizen by descent and not 'otherwise than by descent')
- unable to confirm who is a parent for nationality purposes (see: definition of parents for nationality purposes guidance)
- considering withdrawing the application due to of lack of documents or evidence to support a child's claim

You must refer the application to an appropriately trained examiner, your operational team leader (OTL) or the Quality Examination Support team (QuESt) who will review the application.

QuESt will support the OTL and examiner in assessing the application. You must consider each case individually using available evidence to make a balance of probabilities decision.

If you decide to send a guidance referral to confirm if the child is not entitled to a British passport. You must:

- include scans of the documents and information relating to the application
- not withdraw or fail the application until you get a response to the guidance referral

If we decide not to issue a British passport to the child, you must follow the:

- Refusing Passport Applications and Passport Facilities guidance, if you are refusing an application for a first British passport
- Withdrawing Passports and Passport Facilities guidance, if you are dealing with an application to renew or replace a passport or withdraw a live passport

If you have any fraud or safeguarding concerns, you must refer the application to the CFT.

**Related content**

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