



Home Office

Parental responsibility: children in care of the local authority

Version 1.0

This guidance is for His Majesty's Passport Office staff dealing with an application for a child in the care of local authorities

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About, Parental responsibility: children in care of the local authority

This guidance tells His Majesty's Passport Office examiners how to deal with an application for a child in the care of local authorities.

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 HM Passport Office's 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 then you can email HM Passport Office's Guidance team.

Publication

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

- version **1.0**
- published for Home Office staff on **20 November 2023**

Changes from last version of this guidance

There are no changes to this guidance

Related content

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Children in local authority care

This section tells His Majesty's Passport Office examiners how to deal with an application for a child in the care of local authorities.

The UK has different laws for England & Wales, Northern Ireland and Scotland. Who will have parental responsibility for the child, will depend on the care order and where the child lives.

Local authorities must tell us if they are responsible (subject to any court order) for the care and control of a child and allowing the child to travel abroad. A child may be in care (depending on the care order) up to the age of 18 years. Where the child is a young adult aged 16 to 17 years old and is a child in care, Social Services must consent to:

- the passport application
- a change in gender

Where the child is in the care of the local authority the Director of Children's services (or equivalent title, for example their deputy, area manager, or Principal Manager Community Care) for that area must consent to the application. A social worker who has a personal knowledge of the child (or someone with the correct qualifications for countersigning a passport) must countersign or be the digital referee on the application and certify the photo. This must be a different person to the person who has consented to the application.

Who can give consent for a child in care

Where the child (up to the age of 18 years) is in care of the local authority, the Director of Children's services (or equivalent title) must give consent to the application and the authority must send us a letter. The letter must confirm:

- the child's full name or the application reference number
- under which act and section of the act the child is subject to
- there are no other causes for concern with the application
- the Social Service office address where they want us to send the passport and supporting documents (we cannot send passports and documents to any other address)

The letter must be signed by the Director of Children's services (or equivalent title) or a representative of the local authority (for example a social worker).

You, the examiner, must also see the court order if this guidance tells you to. You must see:

- care orders from England and Wales if they are:
 - [interim care orders](#)

- [placement orders](#)
- [permanence orders made in Scotland](#)
- any court order relating to parental responsibility from the [Isle of Man or the Channel Islands](#)

You must never accept [emergency protection orders](#) as evidence of parental responsibility.

If you have any doubts about dealing with an application for a child in care, you must refer the application to an operational team leader.

How to confirm PR: child in the care of a local authority

You can accept the local authority has parental responsibility, if all the below apply:

- the Director of Children's Services (or equivalent title) consents to the application and a representative of Children's Services can:
 - confirm in writing the child is being looked after under a full care order
 - give us a court order to confirm any other type of care

If you are unable to confirm the person consenting to the application has parental responsibility (from the application and supporting documents), you must:

- check the child's previous application (if there is one) for any mention of social services involvement
- ask for evidence that shows social services were involved (if the previous application shows they were involved)

Recording your decision: children in care

You must add a case note to the application to record your decision when you confirm the local authority has PR or you needed additional consent to issue the passport.

You must

1. Add a case note as described in Authorisation and consent, to show the actions and decisions you made; and include:
 - the section number and act the child is in care under, for example section 31 Children Act 1989
 - the type of court order supplied
 - who has parental responsibility
 - the date the order was issued
 - the person consenting to the application has done so because the child is in care
2. Check UK Visas and Immigration (UKVI) systems to confirm the parental details if the child has registered as a British national and Social Services have not provided a full birth certificate.

3. Add a case note to record the name and place of birth of the parents, if their details are included on the full birth certificate (or UKVI's systems) but not on the application (you must not request a full birth certificate for a renewal or replacement application solely to case note these details)
4. Scan the document that confirms the local authority has PR if the How to keep scans of supporting documents guidance tells you to.

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Children in care: England and Wales

This section tells HM Passport Office examiners about legal guardianship for children in care in England and Wales

Under the Children Act 1989 in England and the Social Services and Well-being (Wales) Act 2014 in Wales, local authorities look after a child, if the child is:

- provided with accommodation for a continuous period of more than 24 hours (sections 20 and 21 in England and section 76 in Wales)
- subject to a full care order (section 31) or interim care order (section 38)
- subject to a placement order

England and Wales: accommodated children

Section 20 (in England) and section 76 (in Wales) is a voluntary agreement that allows social services to accommodate a child in need, if they believe it will safeguard (protect) or promote the child's welfare. The arrangement needs the consent of everyone with parental responsibility.

Under section 20 or section 76, the local authority must provide the child with accommodation, as the:

- parents abandoned the child
- child does not have suitable accommodation or care, because the person who was caring for the child is unable to do so

Under section 20 or section 76, local authorities do not have parental responsibility for children, and you will need the consent of a person with parental responsibility for any application for a person aged under 16. If a representative of the local authority, has given consent in the absence of a person with parental responsibility, you must ask them why they gave it.

The letter from the local authority must:

- be on letter headed paper
- signed and dated
- confirm there is no one with parental responsibility
- give details of:
 - how long those with parental responsibility have been missing
 - what steps they have made to find them

When you get the letter, you must:

1. Add a case note to show the details of the letter.
2. Refer the application to:

- the Quality, Examination Support team (QuEST) by raising a guidance query, if you have doubts about how to deal with the application
- a higher executive officer (HEO) and recommend they accept the application if you do not have doubts

The HEO must:

1. Decide whether to accept the application.
2. Add a case note to show their decision.

England and Wales: full care orders

A court will make a full care order to place a child:

- in the care of a local authority
- under the supervision of a local authority

A care order under section 31 of the act, gives the local authority parental responsibility. It will remain in force until the child reaches the age of 18. However, a full care order can end earlier if:

- the court discharges the care order
- a residence order is made for the child
- the child is adopted

Under section 31, the Director of Children's Services (or equivalent title) makes a passport application for a child in care, without the consent of the child's parents. When they do, a member of the Children's Services department (for example, the social worker who countersigns the application) must confirm in writing on letter headed paper that the child is in care under section 31 of the Children Act 1989. We do not need to see the care order.

England and Wales: supervision orders

If the child is under a supervision order (section 35 of the act), you must ask for the consent of someone with parental responsibility.

England and Wales: interim care order

Interim care orders (ICOs) under section 38 of the act, will give the local authority parental responsibility for a child. They must send the ICO to us as part of the application so we can check it.

You must check the ICO and make sure it shows the local authority has PR and it is valid on the day you issue the passport. If an ICO shows:

- a specific date of expiry, the ICO is valid up to and including that date
- it is 'valid until the end of proceedings', you must:

- request a statement from the local authority (for example, from the person who gave consent or someone else with written permission of the local authority) confirming that proceedings are still on going
- accept the statement from the local authority confirms the ICO is still valid until the end of the proceedings
- no date of expiry and does not state it is 'valid until the end of proceedings', it will expire 8 weeks from the date of issue

Once an ICO has expired it ceases to be valid (for example it has gone past the date of expiry, or past the 8 weeks). If it has expired, you must contact the child's social worker to check if:

- another court order has replaced the expired ICO
- PR has gone back to those who had it originally
- PR has changed to a different person

You may need to request further evidence of PR if the any of above apply. For example, you may need to see the new court order or request additional consent from someone who has PR for the child. Before asking for additional consent you must consider if asking for it would put the customer or child at risk of harm (see Safeguarding: consent issues).

England and Wales: placement orders

A placement order is a court order that allows a local authority to place a child for adoption with any prospective adopters they choose.

Only local authorities may apply for placement orders. The order remains in force until:

- a court revokes the order
- a court makes an adoption order for the child
- the child marries (or forms a civil partnership)
- the child reaches the age of 18

The local authority will share parental responsibility with prospective adopters. We will accept consent from the Director of Children's Services (or equivalent title) or the prospective adopters.

The prospective adopters will not be able to change the child's name without the consent of a court or the written consent of everyone with parental responsibility.

You must see the court order, as there may be extra restrictions on parental responsibility.

If the prospective adopters make an application for a passport and the court order does not show their names, you must get a letter from the local authority, confirming the names of the prospective adopters.

England and Wales: emergency protection orders

You must not accept an application made with an emergency protection order, as these only last for a short period of time (for example, up to 15 days). You must refer the application to the Counter Fraud team who will take advice from Child Protection and Safeguarding team.

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Children in care: Scotland

This section tells HM Passport Office examiners about legal guardianship for children in care in Scotland

A Director of Children's Services (or equivalent title) may give consent to a child's passport, if the local authority has a:

- parental responsibility order, sometimes referred to as a residency order ([section 11 of the Children \(Scotland\) Act 1995](#))
- full care order under section 86 of the Children (Scotland) Act 1995
- permanence order ([section 80-83 of the Adoption and Children \(Scotland\) Act 2007](#))

Scotland: full care orders

Section 86 of the Children (Scotland) Act 1995 is a full care order.

Under section 86, a Director of Children's services (or equivalent title) in the local authority can make a passport application for a child in care, without the consent of the child's parents. The social worker who countersigns the application must confirm in writing that the child is in care under section 86 of the Children (Scotland) Act 1995. We do not need to see the care order.

On 28 September 2009, the Adoption and Children (Scotland) Act 2007 replaced full care orders under section 86, with [permanence orders](#) under section 80 to 83.

Scotland: permanence orders

Sections 80 to 83 of the Adoption and Children (Scotland) Act 2007 relate to [permanence orders](#). The order:

- gives parental responsibility to the local authority
- can give or remove parental responsibility for example, to or from a child's parents or foster carers

You must see the order to confirm who has parental responsibility for the child.

Scotland: section 25 of the Children (Scotland) Act 1995

If the local authority is looking after a child (under section 25 of the Children (Scotland) Act 1995), you must ask for the parent's consent (as local authorities do not have parental responsibility).

If the parent's location is unknown (or they have died), the local authority must provide a signed and dated letter on letter headed paper explaining the circumstances. It must include:

- if the parents have died (if they have died)
- how long the parents have been missing (if they are missing)
- details of any attempts to find the missing parents (if they are missing)

If you have doubts about how to deal with the application, you must raise a guidance query.

Before you issue a passport, you must refer the application to a HEO with your recommendation to issue a passport. The HEO must:

1. Decide if you can issue a passport.
2. Add a case note to show their decision.

Scotland: compulsory supervision order

Section 83 of the [Children's Hearings \(Scotland\) Act 2011](#) is a compulsory supervision order (CSO).

The courts must review a CSO at least once a year. A CSO issued under section 138 of the act is a CSO that has been reviewed by a court.

A CSO does not automatically give a local authority parental responsibility, the person (or local authority) applying for the CSO must request this when they apply for it. You must check the CSO to confirm who has parental responsibility and rights. If the court order does not give parental responsibility to a person (or local authority) you must get consent from someone else who has parental responsibility.

Scotland: kinship order

Section 10 of [the Looked after Children \(Scotland\) regulations 2009](#), is a kinship order that's issued to a kinship carer. A kinship carer is a person who the child:

- is related to
- has a pre-existing relationship with

You must confirm what section of the Children (Scotland) Act 1995 the child is in care under, to confirm who can consent to the application. If the kinship order does not clearly show who will have parental responsibility you must raise a guidance referral. The Quality, Examination Support team (QuEst) will consult with the Passport Policy team.

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Children in care: Northern Ireland

This section tells HM Passport Office examiners about legal guardianship for children in care in Northern Ireland

The [Children \(Northern Ireland\) Order 1995](#), is the same as the Children Act 1989.

Northern Ireland: full care orders

Article 50 of the Children (Northern Ireland) Order 1995, is a full care order. It gives a local authority parental responsibility. You must refer to [Children in care in England and Wales: full care orders](#) for how to deal with the application.

Northern Ireland: accommodated children

Article 21 of the Children (Northern Ireland) Order 1995 is a voluntary agreement. It allows a local authority to accommodate a child in need, if they believe it will safeguard or promote the child's welfare. You must refer to [Children in care in England and Wales: accommodated children](#) for how to deal with the application.

Northern Ireland: interim care order

Article 57 of the Children (Northern Ireland) Order 1995 is an interim care order. While the order is valid, the local authority will have parental responsibility for the child. You must refer to [Children in care in England and Wales: interim care order](#) for how to deal with the application.

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Children in care: The Channel Islands and Isle of Man

This section tells HM Passport Office examiners about legal guardianship for children in care in the Channel Islands and Isle of Man

Social services in Jersey, The Committee for Health and Social Care in Guernsey and Alderney and The Department of Health and Social Care in the Isle of Man, may get parental responsibility by having:

- a community parenting order
- an emergency child protection order
- a care requirement
- a secure accommodation order

You must ask the customer to send in any orders relating to parental responsibility for child in care applications from the Channel Islands or Isle of Man.

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