



Home Office

# Parental responsibility: what it is and how we check for it

Version 1.0

This guidance tells His Majesty's Passport Office staff what parental responsibility is, how to use it for passport purposes and how to check for it

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# About, Parental responsibility: what it is and how we check for it

This guidance tells HM Passport Office staff:

- what parental responsibility is and why we need it for passport purposes.
- how to use the information shown in the passport application to confirm parental responsibility
- how to confirm parental responsibility if the child is registered as a British national (and the parents have not supplied a birth certificate)

Parental responsibility has no effect on nationality, you (the examiner) must also check the child has a claim to British nationality when you deal with a passport application.

## 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**
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## Changes from last version of this guidance

There are no changes to this guidance

### Related content

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# What parental responsibility is

This section tells HM Passport Office staff what parental responsibility is and how we use it for passport purposes.

The concept of parental responsibility came into force with the introduction of:

- the Children's Act 1989 on 14 October 1991 in England and Wales
- the Children (Scotland) Act 1995
- the Children (Northern Ireland) Order 1995

The Children's Act 1989 defined parental responsibility 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. The Northern Ireland and Scottish laws provide similar considerations in their legislation.

Parental responsibility (PR) gives individuals legal rights in respect of the child. For example, more than one person may hold PR for a child, and they will not lose PR because someone else gets PR for the child.

PR can only be removed by a court, and it is for the courts to decide when consent is not required. We normally allow a person to act alone when more than one person has PR, unless there are specific provisions in law that need consent from more than one person or we are aware of a parental dispute. Where we ask for consent of another person due to provisions in law or for other policy reasons, we call that additional consent. We may decide not to request additional consent if we believe there is a [risk of harm](#) if we ask for it, but our decision can be overturned by the courts.

Changes of personal details for children require consent from everyone with PR unless there is a court order to waive this requirement (Court of Appeal on case Re P (1997) 2 FLR 730).

Parents of children born overseas will also have parental responsibility and rights based on the laws of the country where the child is born or where the child currently lives and spends most of their time (known as habitually resident). See Authorisation and consent for more information.

Parental responsibility has no effect on nationality, you (the examiner) must also check the child has a claim to British nationality when you deal with a passport application.

## Who must consent to a child's passport application

A minor (child) is a person under the age of 18. For passport purposes, a child is someone under the age of 16, you may also need consent for a person aged 16 or

17 in specific circumstances (see Authorisation and consent). Therefore, the person consenting to a child passport, must:

- have parental responsibility
- have legal guardianship
- act in place of a parent or guardian
- have a court order confirming they have PR, additional PR is not needed etc.

You, the examiner, must be able to confirm who holds parental responsibility for a minor and determine if the person consenting to a child's passport application is able to do so.

A person who has PR is usually the child's:

- mother or father (there are different rules for when a father or mother has PR depending on where and when the child was born, see Knowledge Base and Authorisation and consent)
- adoptive parent
- second male or female parent (if they are married or in a civil partnership and named as parent 2 on the full birth certificate)
- father who commissioned a surrogacy agreement (depending on the circumstances and the country where the child was born)

You must refer to authorisation and consent to confirm when you need consent or additional consent. For example, you may need additional consent from everyone who holds parental responsibility if the child's name or gender has changed.

## Parental responsibility: safeguarding the customer

We must not ask for additional consent and must refer the case to the Child Protection and Safeguarding team (through your local Counter Fraud team), if asking for additional consent would:

- put a customer at risk of harm, (see *Safeguarding: consent issues*) examples include where the person we ordinarily would need consent from:
  - has been violent, threatening or abusive to a minor, parent or legal guardian
  - has a restraining order (or prohibited steps order) preventing or restricting them from contacting the minor, parent or legal guardian
  - is in prison
- directly discriminate against a parent under UK law (for example, a local law in a foreign country states that mothers cannot apply for their own children's passport and that we always need consent in all cases from their father, but where the father refuses)

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# Parental responsibility: checking a passport application

This section tells HM Passport Office what information we need to check the person applying on behalf of a child has parental responsibility or legal guardianship

The customer must give us information about the child's parents so we can establish the child's British nationality. We also need the information to help us determine who has parental responsibility for them.

You, the examiner, must:

1. Check if the parents' details on the application, have changed from a previous application or source document, are missing or incomplete.
2. Check if the person giving consent has parental responsibility or legal guardianship for the child, for example, if they:
  - are a birth parent
  - are an adoptive parent
  - a commissioning parent for a child born through surrogacy
  - they are the legal guardian or hold a court order giving parental responsibility
  - are a Director of Children's Services (or equivalent title, for example their deputy, area manager, or Principal Manager Community Care) and the child is in care
  - are acting in place of a parent (in loco parentis)
3. Check if you need additional consent and whether asking for it will put the child or customer at risk of harm.
4. Add a case note confirming who has given consent and how you confirmed it

## Checking consent for overseas applications

For overseas applications you, must also consider where the child is born or where the child currently lives and spends most of their time (known as habitually resident) and how this affects who has PR for the child.

If the child is habitually resident overseas, you must check:

- the individual country (or territory) information held in Knowledge Base to make sure there are no laws in that country which state that the person applying does not have PR or cannot consent alone. For example, if the child is resident in Hong Kong or Macau you must check the Hong Kong or Macau Knowledge Base pages as these are territories of China and the laws differ
- the Country of birth: islands, places, and territories guidance if you are given a country (or territory) of birth that you do not recognise (for example Tokelau) to help you to find the relevant Knowledge Base page.

If the customer does not agree with the information in Knowledge Base you must raise a guidance query.

## Checking consent if the child has registered as British

Registration certificates do not show parents details or the person's gender. When you receive an application for a child who has registered as a British national, you must confirm the person consenting to it, has the right to do so. You must also check the child's gender is correct as per the Naturalisation and registration certificates guidance.

To check the person consenting to the passport application has PR, where you do not have the child's full birth certificate, you (the examiner) must:

1. Compare the parents' details from the information they have given you and the declaration section of the application.
2. Check UK Visa and Immigration (UKVI) systems to:
  - compare the parents' details on UKVI records against the passport application
  - confirm if the documents in the registration application show the person applying has PR
3. Confirm the person giving consent for the passport application has PR.

You can accept the person consenting to the passport application has the right to do so, if you can complete checks and all the following apply:

- the person applying is the child's father or mother (not step-parent unless UKVI system shows it was a step-parent parental agreement)
- the parents' details recorded by UKVI's Atlas system, (the case card screen under 'Other Parties Involved') match the passport application
- UKVI's records show the person making the passport application has PR for the child (the record must show the person has PR for the child it is not enough for UKVI to have accepted they are acting on the child's behalf, for example an older sibling can apply to register a child)

You must ask the customer for more documents (for example, the child's full birth certificate, or a court order confirming they have PR), if:

- the person applying for the passport is not the mother or father of the child
- UKVI system records does not list the parents' details
- the details on UKVI records are different from the details on the passport application
- you still have doubts about who has PR

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