



Home Office

Surrogacy

Version 7.0

His Majesty's Passport Office guidance on dealing with applications involving surrogacy (a type of assisted reproduction)

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About: Surrogacy

This guidance tells His Majesty's Passport Office staff:

- what surrogacy is and the types of surrogacy
- the roles of people involved in a surrogacy (for example, the surrogate mother and commissioning (the child's intended) parents)
- confirm who can consent to the issuing of a passport for a child born through surrogacy
- confirm the child's claim to British nationality
- what documents are needed (when a child is born through surrogacy) to establish nationality, identity and entitlement to a British passport
- how you consider vulnerability and safeguarding when dealing with an application involving surrogacy

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 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 the [Guidance team](#).

Publication

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

- version **7.0**
- published for Home Office staff on **12 December 2023**

Changes from last version of this guidance

We have updated the guidance to make minor formatting amendments.

Related content

[Contents](#)

What is surrogacy

This section tells His Majesty's Passport Office staff, why and when we issue a passport to a child born through surrogacy, why the assessment is different to a child born through other forms of reproduction, or who has been adopted. It explains what surrogacy is including the definition of [altruistic](#) and [commercial](#) surrogacy, who is involved in a surrogacy and the laws and legislation around surrogacy that HM Passport Office follow.

Surrogacy is a type of an assisted reproduction (medical intervention) option for an individual person or couple, who are unable to conceive (get pregnant) or for other reasons decide not to carry a child themselves.

It is an [arrangement](#) where a third party, [a surrogate mother](#), carries (is pregnant) and gives birth to a child on behalf of someone else who intend to become the child's parents, the [commissioning parents](#). The arrangement is usually supported by a [surrogacy agreement](#).

The types of surrogacy

There are 2 different types of surrogacy:

- gestational
- traditional

This can be mentioned on medical or clinic documents to support an application.

Gestational surrogacy

In a gestational or 'full' surrogacy, the surrogate mother and her husband, wife or civil partner (if she has one) are not genetically related to the child. The sperm and egg needed to create the embryo may come from donors or 1 or both commissioning parents. The embryo is implanted into the surrogate mother.

Traditional surrogacy

Also known as 'partial' or 'genetic' surrogacy. The surrogate mother is genetically related to the child through the use of her own eggs. She is impregnated artificially using donor sperm that may be from 1 of the commissioning parents.

You, the examiner, must remember under UK legislation, a surrogate mother is recognised as a child's [legal parent](#) at the time of their birth, because they gave birth to the child. This is regardless of:

- type of surrogacy that took place
- if they are genetically linked to the child
- their intentions to hand the child over to the commissioning parents

It is only after documents are granted (for example, a UK parental order), that the surrogate mother and their husband, wife or civil partner, loses their rights and responsibilities to the child, as they are no longer the [child's legal parent](#).

The type of surrogacy arrangement

A surrogacy arrangement can be described as an [altruistic](#) or [commercial](#) arrangement.

Surrogacy arrangement: altruistic

An altruistic surrogacy arrangement is when a surrogate mother volunteers to carry a child (is pregnant) for the [commissioning parents](#) and receives payment to cover only reasonable expenses.

It is for the courts to decide what those reasonable expenses are if the commissioning parents apply for a UK parental order or adoption. You must not ask for or make any assessment of the expenses as this does not impact a passport application. For a passport application, you are looking at nationality, identity and safeguarding.

Surrogacy arrangement: commercial

The alternative to altruistic surrogacy is commercial surrogacy. Commercial surrogacy is when the surrogate mother is:

- compensated (receives payment) for her services (carrying and giving birth to the child)
- reimbursed for:
 - any medical expenses
 - her time and energy and the physical and emotional challenges

The UK does not allow commercial surrogacy, but we must still accept and consider passport applications for children born through commercial surrogacy overseas.

While a passport application may show a commercial surrogacy took place, it is for the courts to decide what reasonable expenses are, if the commissioning parents apply for a UK parental order or adoption. We must consider the surrogacy for nationality purposes, even if the application (and evidence) suggests a significant amount money has been exchanged.

We must not form negative conclusions if a surrogacy arrangement is commercial. You must not ask for or make any assessment of the expenses as this does not impact on the passport application where you are looking at nationality, identity and safeguarding.

Who is involved in surrogacy

There are several people or organisations, involved in a surrogacy with different roles in the process, such as:

- the child born as a result of a surrogacy arrangement (called a surrogate child)
- the surrogate mother:
 - the person who carries and gives birth to the child
 - gives up her rights to the child after the birth
 - may still be regarded as the child's parent, until the courts issue a document that confirms this has changed (for example, a UK parental order or adoption)
 - the surrogate mother's husband, wife or civil partner who may have a role in the surrogacy process and can be regarded as the legal parent, until the courts issue a document confirms this has changed (for example, a UK parental order or adoption)
- the [commissioning parents \(the child's intended parents\)](#) who enter into the surrogacy agreement with the intention of receiving the child - they can be:
 - a couple in an opposite-sex or same-sex relationship (married, civil partners or partners)
 - an individual (single person)
 - a hospital or clinic, where the medical procedures take place – there may be more than one place involved (see [GOV.UK](#) for more information on having a child through surrogacy)
 - a third party (usually a legal advisor or surrogacy agency) who may:
 - work on behalf of the commissioning parents in the UK or overseas, in the country the surrogate mother or child is in
 - recruit the surrogate mother
 - have a power of attorney to act on behalf of the commissioning parents (you must accept the power of attorney if it is recognised in the country where the surrogacy and the birth took place)

Surrogate mother: definition

Surrogate mothers usually describe themselves as the surrogate and not the surrogate mother as they do not view themselves as mothers of the children they help bring into the world.

In line with [UK legislation](#) and for the purposes of this guidance, we refer to them as the surrogate mother and the woman who gives birth to the child.

Commissioning parents: definition

The intended parents of the child who enter into a surrogacy agreement with the intention of receiving a child are called the 'commissioning parents', 'commissioning couple' or 'commissioning parent' (if it is only 1 person).

For the purposes of this guidance, we refer to them as the commissioning parents.

A child (born through surrogacy) can have a genetic link, depending on [the type of surrogacy](#) and the sources of the embryo (the egg and sperm used to create the child), with:

- both the intended parents
- one of the intended parents
- neither of the intended parents

According to UK legislation, having a genetic link to a child does not always mean that person is recognised as their legal parent. Even if they are recognised as a legal parent in the country of birth, you, the examiner, must confirm who are the legal parents (under UK legislation) to establish:

- the child's [claim to British nationality](#)
- who has parental responsibility for the child and [can consent to the issuing of the passport](#)

Surrogacy: legal parent

The commissioning parents will be the child's legal parent if they have been granted any of the following documents:

- a [UK parental order](#)
- a UK or overseas adoption order (if it transfers legal parenthood from the surrogate parents to the commissioning parents)
- other evidence from an overseas court that recognises them as the child's legal parent

If the commissioning parents do not have any of these documents and until 1 of these documents is issued, a child's legal parent (under UK legislation) is the:

- surrogate mother (whether or not she is genetically linked to the child)
- surrogate mother's husband, wife or civil partner (if she is married or in a civil partnership and they [consented to the treatment](#))
- commissioning father (if the surrogate mother is not married at the time of the birth) and if:
 - they are named on the child's full birth certificate within 12 months of their birth (if the birth was registered before 10 September 2015)
 - they are named on the child's full birth certificate (if the birth was registered on or after 10 September 2015) and there are no concerns over the validity of the birth certificate
 - there is no father named on the child's full birth certificate, but evidence confirms there is a biological link between them and the child

Some countries offer a way for the commissioning parents to be named on the full birth certificate, at the time of the child's birth, instead of surrogate mother and their husband, wife or civil partner. This is called a pre-birth certificate or order.

These documents are not acceptable, under UK legislation, to confirm the transfer of legal parenthood to the commissioning parents. However, they can be used to support a passport application and can offer details about the surrogacy. This is useful if there is little or no evidence to establish a child was born of a surrogacy arrangement.

No consent from surrogate's husband, wife or civil partner

If the surrogate mother's husband, wife or civil partner did not agree to the fertility treatment, UK legislation confirms they are not recognised as the child's legal parent.

This information can be found in documents provided to support the application (for example, the surrogacy agreement, power of attorney or medical documents from the surrogacy organisation about the fertility treatment).

When checking the documents to confirm who has consented to the treatment, you must check the date the document expires or if it has any specific instructions.

Surrogacy: UK parental orders

A UK parental order transfers the legal parenthood from a surrogate mother (and their husband, wife or civil partner) to the commissioning parents. They are granted by the UK courts, under legislation:

- [Human Fertilisation and Embryology Act 1990](#)
- [Parental orders \(Human Fertilisation and Embryology\) Regulations 1994](#)
- [Human Fertilisation and Embryology Act 2008](#)
- the [Human Fertilisation and Embryology \(parental orders\) Regulations 2010](#)

The [Parental orders \(Human Fertilisation and Embryology\) Regulations 1994](#), introduced on 1 November 1994, only allowed commissioning parents in an opposite-sex marriage (husband and wife), to apply to the UK courts for a UK parental order to become the legal parents of a child born through surrogacy.

However, this was amended when changes were made to the Human Fertilisation and Embryology Act 2008 and the introduction of the Human Fertilisation and Embryology (parental orders) Regulations 2010. After 6 April 2010, a UK parental order can be applied for by:

- a couple in an opposite-sex or same-sex:
 - relationship (living as partners)
 - civil partnership
 - marriage
 - an individual (from 3 January 2019)

When applying for a UK parental order, the commissioning parents must:

- meet the criteria (for example, at least 1 person applying must be genetically related to the child)

- satisfy the UK courts that a UK parental order is necessary to safeguard the child's lifelong welfare

After 6 weeks, a surrogate mother and anyone else considered the child's legal parent must consent to the UK parental order (unless they are incapable of doing so or cannot be found to give consent).

The commissioning parents cannot apply for a UK parental order until the child is 6 weeks old.

See [GOV.UK](https://www.gov.uk) for information on how commissioning parents apply for a UK parental order. If the commissioning parents do not meet the criteria for a parental order, they may need to adopt the child.

After a UK parental order is granted, the people named on the order (usually the commissioning parents) are recognised as the child's legal parents for parental responsibility. If the UK parental order is granted on or after 6 April 2010, they are also recognised for nationality purposes.

The courts will also tell the Registrar General (of Scotland, Northern Ireland or England and Wales) to re-register the child's birth to show the commissioning parents as the child's mother and father and not the surrogate mother and her husband, wife or civil partner.

A birth certificate issued after a UK parental order is granted may look different to other birth certificates. For example, the General Register Office issues a birth certificate with 13 sections and not 17 sections, as it does not include the section with the 'Informant' details.

See UK Knowledge Base for a sample of these UK issued birth certificate.

Surrogacy: laws and regulations

There is no single set of international laws, regulations or standards for surrogacy.

The differing regulatory frameworks and country specific requirements means that there are several differences in the documents available to establish a child's parent for nationality purposes and parental responsibility.

It is important to remember that while some countries have rules on who can be commissioning parents (for example, not allowing same-sex couples to go through the surrogacy process) it does not stop the child having a claim to British nationality.

This may have an impact on the commissioning parents' ability to:

- get a birth certificate
- get another legal document
- allow them to take the child to their country of residence

See Knowledge Base for more information on surrogacy laws.

If the commissioning parents enter into a surrogacy agreement in a country that is not their country of residency, it is called an inter-country surrogacy agreement. This may happen between 2 or more countries.

Commissioning parents entering into an inter-country surrogacy agreement are responsible for meeting the laws and requirements in:

- their country of residence
- the country the child (born through the surrogacy) is born in
- in any other country involved in the surrogacy process (for example, if the commissioning parents live in a country different to their country of birth or if they enter a surrogacy agreement under that countries' laws)

If the commissioning parents do not do this, they may have a lengthy and complex process after the child's birth which may result in them not being able to receive the child. The commissioning parents must contact the Foreign Commonwealth and Development Office if they need consular support, whilst outside the UK.

Surrogacy: UK laws and regulations

Surrogacy is legal and regulated in the UK. However, surrogacy agreements are not be enforceable by law. This means, if a surrogate mother changes her mind and decides to keep the child, the commissioning parents cannot challenge it in court.

The UK legislation that controls surrogacy agreements and the legal parentage of children born through assisted reproduction are the following:

- the [Surrogacy Arrangements Act 1985](#) (regulating surrogacy in the UK)
- the [Human Fertilisation and Embryology Act 1990](#)
- the [Human Fertilisation and Embryology Act 2008](#) (regulating assisted reproduction in the UK)
- [Parental orders \(Human Fertilisation and Embryology\) Regulations 1994](#)
- Parental orders (Human Fertilisation and Embryology) (Scotland) Regulations 1994
- the [Human Fertilisation and Embryology \(parental orders\) Regulations 2010](#) (legislation confirming parental orders)

The legislation confirms:

- who a child's parents are for the purposes of parental responsibility through amendments to the:
 - Children's Act 1989
 - Children's (Scotland) Act 1995
 - Children's (Northern Ireland) Order 1995
 - who a child's parents are for the purposes of nationality through amendments to the British Nationality Act 1981

- the specific conditions needed for the commissioning parents to apply for a [UK parental order](#) (to become the child's legal parent)

See [GOV.UK](#) for information about surrogacy.

Surrogacy: impact on passport applications

When we get a passport application for a child born through surrogacy, we must deal with it differently than an application where the child is conceived using other types of assisted reproduction.

This is due to the involvement of the surrogate mother, recognised as the child's legal mother at the time of the child's birth, under [UK legislation](#).

It also means the child's second legal parent may be the surrogate mother's husband, wife or civil partner (if she is married or in a civil partnership).

If the commissioning parents are (or become) a child's legal parents, under UK legislation:

- they have parental responsibility for that child
- the child can have a claim to British nationality through them

In most cases, the child's commissioning parents (the intended parents of the child) apply for the child's British passport. We must check how the child is linked to the [commissioning parents](#).

The actions you, the examiner, must take, depend on if the:

- commissioning parents:
 - are the child's legal parent
 - have parental responsibility of that child
 - are acting 'in loco parentis' (in place of parent) because no one has parental responsibility
 - are named on the child's full birth certificate
 - have applied for the child's previous passports because of a third party involvement
- child has an [automatic claim to British nationality](#)

To issue a British passport, we must confirm the:

- child's (born through surrogacy):
 - claim to British nationality
 - identity
 - entitlement
- person applying has the authority to do so and [can consent to the issuing of a passport](#)
- commissioning parents' (intended parents) identity
- surrogate mother's identity

- surrogate mother's husband, wife or civil partner (if the surrogate mother is married or in a civil partnership):
- identity
- whether they consented or not to the surrogacy agreement

When looking at an application involving a child born through surrogacy, we must consider:

- where the commissioning parents live (UK or overseas)
- where the child is, at the time the passport application is submitted (UK or overseas)
- the commissioning parents may not be in the country where the child was born (for example, the commissioning parents are in the UK and the child is born in Ukraine)
- if there are any risk indicators, child protection, safeguarding or vulnerability concerns, for example, any suggestion of fraud, dishonesty, coercion or other criminal actions

If you have any fraud, risk indicators, child protection, safeguarding or vulnerability concerns, you must refer the application to the Child Protection and Safeguarding team (CPST) through the local Counter Fraud team (CFT).

Related content

[Contents](#)

Surrogate child: confirm a claim to British nationality

This section tells HM Passport Office examiners dealing with an application involving a surrogacy agreement, how to confirm a child born through surrogacy's claim to British nationality.

A person's nationality is defined by legislation (for example, the British Nationality Act 1981). Having a commissioning parent who has British nationality or lives in the UK, does not guarantee that a child born through surrogacy, is entitled to British nationality. Their eligibility will depend on:

- where and when the child was born
- who is recognised as their [legal parent](#) (for example, is it the commissioning parent or surrogate mother)
- what is their legal parent's nationality

Nationality: surrogate child born before 1 July 2006

If you, the examiner, must confirm the British nationality status of a child born through surrogacy before 1 July 2006, you must check if the child:

- has an automatic claim to British nationality because the commissioning parents have adopted the child in the UK or overseas under a Hague convention adoption (see adoptions guidance)
- has an automatic claim to British nationality because the surrogate mother is the child's legal parent and has British nationality
- has an automatic claim to British nationality because the surrogate mother is married and both:
 - the child is her husband's legitimate child (see legitimation and domicile guidance)
 - her husband has British nationality and gave consent for the treatment to take place
- has been registered as a British national by UK Visas and Immigration, as they did not have an automatic claim to British nationality
- has no claim to British nationality, for example:
 - the legal parent does not have a British nationality
 - their legal parent could not pass on British nationality as their status was 'by descent' (only applies to children born outside the UK)
 - if the surrogate mother's husband is a British citizen but he did not consent to the treatment taking place – this may be found in documents sent in to support the application (for example, documents from the clinic)
 - the commissioning parents have been [granted a parental order on or before 5 April 2010](#)

If the child has no automatic claim to British nationality and has not been registered as a British citizen by UK Visas and Immigration, see [Nationality: surrogate child has no claim, refer to UKVI](#).

Nationality: surrogate child born on or after 1 July 2006

If you must confirm the British nationality status of a child born through surrogacy (on or after 1 July 2006), you must check if the child has:

- an automatic claim to British nationality as the commissioning:
 - parents have been granted a [UK parental order \(on or after 6 April 2010\)](#) and at the time it is granted, one of the parents has their British nationality status 'otherwise than by descent', 'by descent', naturalisation or registration
 - parents have adopted the child in the UK or overseas (under a Hague convention adoption)
 - father or second legal parent, is named on the child's full birth certificate within 12 months of their birth and the surrogate mother was not married or in a civil partnership with someone else at the time of the child's birth (see definition of parents for nationality purposes guidance)
 - father or second legal parent can provide proof of paternity (for example, DNA evidence), if the surrogate mother was not married or in a civil partnership with someone else at the time of the child's birth and no one else is named as father or second legal parent on the child's full birth certificate
 - father or second legal parent can provide proof of paternity (for example, DNA evidence), if the surrogate mother was not married or in a civil partnership with someone else at the time of the child's birth and no one else is named as father or second legal parent on the child's full birth certificate
- an automatic claim to British nationality because the surrogate mother is:
 - the child's legal parent and has British nationality
 - married or in a civil partnership and their husband, wife or civil partner is the child's legal parent and has British nationality
 - been registered as a British national by UK Visas and Immigration, because they did not have an automatic claim to British nationality
- no claim to British nationality, for example, their legal parent:
 - does not have a British nationality
 - cannot pass on British nationality because their status was 'by descent' (only applies to children born outside the UK)

If the child's second legal parent is a female, the child must have been conceived on or after 6 April 2009, in accordance with UK legislation. See definition of parents for nationality purposes guidance.

If you have any fraud, risk indicators, child protection, safeguarding or vulnerability concerns, you must refer the application to the Child Protection and Safeguarding team (CPST) through the local Counter Fraud team (CFT).

Nationality: commissioning parents have a UK parental order

You must check if the UK parental order was granted:

- on or before 5 April 2010
- on or after 6 April 2010

UK Parental order: granted on or before 5 April 2010

Due to UK legislation, a UK parental order granted before 6 April 2010:

- can only be applied for by a commissioning parents in an opposite-sex marriage (husband and wife)
- gives the people named on the order parental responsibility of the child named in the order
- does not let the child have a claim to British nationality through the people named on the order

If the commissioning parents provide a UK parental order which was granted on or before 5 April 2010, you must check if the child has an alternative claim to British nationality. To do this, see:

- [commissioning parent named on birth certificate](#)
- [commissioning parent not named on birth certificate](#)

If the child has no automatic claim to British nationality and has not been registered as a British citizen by UK Visas and Immigration, see [Nationality: surrogate child has no claim, refer to UKVI](#).

UK Parental order: granted on or after 6 April 2010

After changes were made to the [Human Fertilisation and Embryology Act 2008](#) and the introduction of the [Human Fertilisation and Embryology \(parental orders\) Regulations 2010](#), a UK parental order (granted on or after 6 April 2010) can now be:

- applied for by a couple
- applied for by an individual (from 3 January 2019)
- considered in the same way as an adoption order (as the changes amended section 1(5) British Nationality Act 1981)

These changes mean a child born through surrogacy, is a British citizen under section 1(5) British Nationality Act 1981 from the date the UK parental order was granted. But only if both of the following apply:

- the parental order was granted on or after 6 April 2010

- a commissioning parent is a British citizen at the time the UK parental order was granted

If a child has a claim to British nationality through a UK parental order, you, the examiner, must record the child's status, in line with relevant nationality (for example, British citizenship) guidance and add a case note on the application confirming:

- the date the UK parental order was granted
- the child's commissioning parent, named on the UK parental order, is a British citizen at the time the UK parental order was granted

If the commissioning parents have been granted a UK parental order (on or after 6 April 2010) but they only have settled status in the UK (for example, Indefinite Leave to Remain or No Time Limit) you must check to if the child has another claim to British nationality. To do this, see:

- [commissioning parent named on birth certificate](#)
- [commissioning parent not named on birth certificate](#)

See [Nationality: surrogate child has no claim, refer to UKVI](#) if the child has no automatic claim to British nationality and has not been registered as a British citizen by UK Visas and Immigration.

Nationality: commissioning parents have adopted the child

If the commissioning parents provide an adoption order (or certificate) from the UK or overseas to support the application, you must confirm the child's claim to British nationality using the adoption guidance.

If the child has no automatic claim to British nationality (for example, they were adopted overseas in a non-Hague convention adoption and have not been registered as a British citizen by UK Visas and Immigration) see [Nationality: surrogate child has no claim, refer to UKVI](#).

Nationality: commissioning parent named on birth certificate

If the commissioning parents do not have a birth certificate or post-birth documents because the authorities the child was born in will not issue one to them, see [Surrogacy: no birth certificate](#).

If the commissioning parents do not have documents (for example, a UK parental order or adoption certificate) to confirm they are the [child's legal parents](#), the child will not have a claim to British citizenship through their commissioning mother.

However, the child may have a claim if both of the following apply:

- the surrogate mother was not married or in a civil partnership with anyone else at the time of the child's birth

- the commissioning father or second legal parent is named on the child's full birth certificate:
 - within 12 months of the birth (if the birth was registered before 10 September 2015)
 - and there is no concerns over the validity of the birth certificate (if the birth was registered on or after 10 September 2015)
- there is no other evidence to confirm another man is the child's father

The child may have a claim to British nationality, in line with the [British Nationality \(Proof of Paternity\) \(Amendment\) Regulations 2015](#) amending Section 50(9) of the British Nationality (Proof of Paternity) Regulations 2006. Where a birth registered on or after 10 September 2015, can be supported by additional evidence to confirm the child's father, if there is a reason for concerns or doubts over the person named on the birth certificate.

This amendment did not change the nationality law and will only apply if the surrogate mother was not married or in a civil partnership at the time of the child's birth. See definition of parents for nationality purposes guidance.

A child may have an automatic claim to British nationality through the surrogate mother or the person she was married (or in a civil partnership with) at the time of the child's birth (if they are a British national).

This information may be found in other documents sent in to support the application (for example, documents from the clinic). If a parental order or adoption is granted, the child will retain their original nationality status.

If the child has no automatic claim to British nationality and has not been registered as a British citizen by UK Visas and Immigration, see [Nationality: surrogate child has no claim, refer to UKVI](#).

Nationality: commissioning parent not named on birth certificate

The child may not have a claim to British nationality, if:

- the commissioning parents do not have documents (for example, a UK parental order or adoption certificate), to confirm they are the [child's legal parents](#)
- the commissioning father or second legal parent, is not named on the child's birth certificate within 12 months of the birth (if the birth was registered before 10 September 2015)

However, the child may have a claim, in line with the definition of parents for nationality purposes guidance, if all of the following apply:

- no other person is named as father or second legal parent, on the child's full birth certificate:
 - within 12 months of the birth (if the birth was registered before 10 September 2015)

- and there are no concerns over the validity of the birth certificate (if the birth was registered on or after 10 September 2015)
- the surrogate mother was not married or in a civil partnership, with anyone else at the time of the child's birth
- father or second legal parent, can provide proof of paternity (for example a court order, birth certificate or DNA test report that confirms paternity)

If any of these do not apply, the child will not have an automatic claim to British nationality.

Using DNA in surrogacy cases

You must not insist on DNA evidence from the commissioning parents, as we do not have the legal power to demand it. DNA may not be the correct evidence to confirm the parents of a child born through surrogacy for nationality purposes, as the child may not have to be biologically linked to the commissioning parents or a child's father can be the surrogate mother's husband rather than the biological father.

If more 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.

If the child has no automatic claim to British nationality and has not been registered as a British citizen by UK Visas and Immigration, see [Nationality: surrogate child has no claim, refer to UKVI](#).

Surrogate child is registered as a British national

If the child has been registered as a British national, you must confirm their nationality claim in line with relevant nationality (for example, British citizenship) and naturalisation and registration certificates guidance.

Nationality: surrogate child has no claim, refer to UKVI

You must not immediately refuse the passport application or tell the customer the child does not have a claim, if it appears the child does not have a claim and you have already:

- considered all the documents you need to establish the claim (in line with this guidance), including what to do if there's [no parental order](#) or [no birth certificate](#))
- referred the application your operational team leader to assess the claim using a balance of probability (see [Surrogacy: documents are not available](#))

Instead, you must:

1. Transfer the application to the Application Management System (if the application is on Digital Application Processing).
2. Send a guidance referral to the Quality and Examination Support team (QuESt) to tell them a surrogate child does not have an automatic claim to British nationality and to ask UK Visas and Immigration (UKVI) if the child can apply to register as a British citizen. When you send the guidance referral, you must include:
 - the child's full name, date of birth, place and country of birth
 - both of the commissioning parent's full name, date of birth and claim to British nationality (if they have one)
 - the birth mother's full name, date of birth and claim to British nationality (if they have one)
 - the email address and phone number for the person making the passport application
 - the reason why the child does not have an automatic claim
 - scans of the documents and information relating to the application
3. Store the application while you wait for QuESt to respond.

You, the QuESt team member must:

1. Check the child does not have an automatic claim (if they do, you must respond to the guidance query to explain the child has an automatic claim).
2. Send an email to UKVI with the child's, commissioning parent's and birth parent's details to:
 - tell them a surrogate child does not have an automatic claim to British nationality
 - ask them if it's possible for the child to make an application to register
3. Send a reply to the guidance referral when UKVI respond, to tell the examiner if the child can, or cannot, make an application to register.

If the surrogate child cannot register with UKVI

If UKVI confirm the child cannot apply to register as a British citizen, you, the examiner, must:

1. Send system letter 604 to the customer to tell them the child does not have a claim and we cannot issue them with a British passport.
2. Add a case note to show the actions and decisions you made.
3. Refuse the application.

If the surrogate child can register with UKVI

If UKVI confirm the child can register as a British citizen, you must:

1. Send system letter 604 to the customer (by email if they provided an email address) to:
 - explain the child does not have a claim to British nationality but they can make an application to register as a British citizen

- explain UKVI will contact them to help them with the registration process if they decide to make an application to register the child
 - ask them to let you if they will, or will not, make an application register the child
2. Add a case note to show the actions and decisions you made.
 3. Store the application while you wait for the customer to reply to your letter.

If the customer does not respond, you must send reminders and withdraw the application (see *Withdrawing passport applications*).

If the customer tells you they do not want to make an application to register the child as a British citizen, you must:

1. Send the customer system letter 604 to:
 - confirm their decision not to apply for registration with UKVI
 - tell them you will reject their passport application as the child does not have a claim to British nationality
2. Add a case note to show the actions and decisions you made.
3. Refuse the application.

If the customer tells you they want to make an application to register the child, you must:

1. Send the original guidance referral back to QuEST to tell them the customer wants to make an application to register their child.
2. Store the application while you wait for the registration certificate.

You, the QuEST team member, must:

1. Reply to UKVI's original email to tell them the customer wants to make an application to register the child and to:
 - contact the customer to help them with the registration process
 - tell them to let you know when the registration process is complete
 - send you an electronic copy of the registration certificate
2. Respond to the guidance referral when the child has registered and include the copy of the registration certificate.

When, you the examiner, get confirmation from QuEST to show the child has registered, you must:

1. Record the child's status, in line with relevant nationality (for example, British citizenship) guidance.
2. Add a case note to the application to show your actions and decisions.
3. Continue to [deal with the application](#), in line with current guidance.

Related content

[Contents](#)

Surrogate child: consent to issue a passport application

This section tells HM Passport Office staff who can consent to a passport application for a child born through surrogacy.

When you, the examiner, receive a passport application for a child born through surrogacy, you must check if the person 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
- are acting 'in loco parentis' (in place of parent) because no one has parental responsibility, as the commissioning father or second legal parent are not:
 - already the child's legal parent
 - named on the child's full birth certificate
 - applied for the child's previous passports and provided us with suitable documents at that time

If a passport is issued to a child born through surrogacy and no official document (for example, a UK parental order) was seen confirming the transfer of legal parentage to the commissioning parents, you must make this clear in your case notes.

Consent: surrogate child's first passport application

When dealing with a first passport application for a child born through surrogacy, you will usually see that the commissioning parents will have applied for the passport to be issued provided their consent. The actions you take will depend on if the commissioning parent has parental responsibility and can consent to the passport being issued, as they:

- have documents to confirm they are [the child's legal parent](#) (for example, a UK parental order)
- do not have documents to confirm they are the child's legal parent, but the commissioning father (or second legal parent) is [named on the child's full birth certificate](#)
- acting 'in loco parentis' because [no one has parental responsibility](#), as the commissioning father or second legal parent are not:
 - already the child's legal parent
 - named on the child's full birth certificate

If someone other than the commissioning parents have applied for a child's passport, you must check if they have sent us any documents to confirm they can consent to the issuing of a passport before sending a guidance referral to confirm we can accept their consent.

Consent: commissioning parent is the child's legal parent

If the commissioning parents have provided documents to support the application and confirm they are the child's [legal parent](#) (for example, a UK parental order), you must:

1. Accept they have parental responsibility and can consent to the issuing of a passport for the child (as long as they are named on the document confirming they are the child's legal parent).
2. Add a case note to show the actions and decisions you made.
3. If dealing with an application on the Application Management System, keep a scan of the document confirming they are the child's legal parent. See How to keep scans of supporting documents guidance.
4. Continue to deal with the application, [in line with other sections of this guidance](#).

If you have any fraud, risk indicators, child protection, safeguarding or vulnerability concerns, you must refer the application to the Child Protection and Safeguarding team through the local Counter Fraud team.

Consent: commissioning parent named on birth certificate

If the commissioning parents do not have documents to confirm they are the child's [legal parents](#), the commissioning:

- mother will not have parental responsibility
- father (or second legal parent) will have parental responsibility if they are named on the child's full birth certificate

Some countries can name the commissioning mother on the child's full birth certificate. Despite this, if we have other documents confirming the child is born through surrogacy, they are not recognised as the child's legal parent, unless there are documents to confirm they are the child's legal parent (for example, a parental order).

You must:

1. Accept the commissioning father (or second legal parent) has parental responsibility and can consent to the issuing of a passport for the child (as long as they are named on the child's full birth certificate).
2. Add a case note to show:
 - the actions and decisions you made
 - you did not receive any documents to confirm they are the child's legal parent
3. If dealing with an application on the Application Management System, keep a scan of the child's full birth certificate confirming they are the child's legal parent. See How to keep scans of supporting documents guidance.

4. Continue to deal with the application, [in line with other sections of this guidance](#).

Consent: commissioning parents do not have parental responsibility

The commissioning parents will not have parental responsibility for a child born through surrogacy, if they:

- are not the child's [legal parents](#) (for example, they do not have a UK parental order)
- cannot meet the requirements to become the child's legal parents (for example, they are not in the UK)
- are not named on the child's full birth certificate (commissioning father or second legal parent only)

When this happens:

- the commissioning parents will be acting 'in loco parentis' (in place of parent) for the child until they become the child's legal parent
- the commissioning parents must provide a statutory declaration
- either commissioning parent can consent to the child's passport application (this is an exceptional situation as there is no other person who has parental responsibility for the child)
- we consider if the commissioning parents have consent from the surrogate mother and her husband, wife or civil partner, confirming that a passport can be issued

You do not need consent from the surrogate mother and her husband, wife or civil partner, if they are the child's legal parents. As the commissioning parents, are acting 'in loco parentis'.

However, if their consent is provided it must be accepted together with a statutory declaration from the commissioning parents.

You must ask the commissioning parents to provide us with a statutory declaration to show:

- their full names
- the child's full name, date of birth and place of birth
- why:
 - they have not become the child's legal parent (in the UK or overseas)
 - the commissioning father (or second legal parent) were not named on the child's full birth certificate
 - they are the child's commissioning parents and will have responsibility for the child on a permanent basis (in line with their surrogacy agreement)
- why they are the most appropriate person to apply for the child's passport
- the date of the surrogacy agreement

- the date they became responsible for the child
- where they and the child will live
- if they intend to become the child's legal parent, by:
 - adopting the child (including where the adoption will take place)
 - getting a UK parental order (if the family live in the UK)
 - there are no objections to the child being issued a passport from the surrogate mother or anyone else
 - they have the consent of the surrogate mother and her husband, wife or partner, that a passport in the name on the passport application and that this consent has been provided with the application

The statutory declaration must follow the format described in the Statutory Declarations Act 1835. The customer (or a solicitor) can draft the statutory declaration but it must be legalised by an authorised witness (for example, at a Magistrates court).

If the commissioning parents provide a suitable statutory declaration, you must:

1. Accept the commissioning parents' consent to the issuing of a passport for the child (as long as they are named on the statutory declaration).
2. Add a case note to show the actions and decisions you made, including if:
 - you did not receive any documents to confirm they are the child's legal parent
 - the person applying for the passport is not the child's legal parent for parental responsibility
3. If dealing with an application on the Application Management System, keep a scan of the child's full birth certificate and the statutory declaration provided. See How to keep scans of supporting documents guidance.
4. Continue to deal with the application, [in line with other sections of this guidance](#).

If you have any fraud, risk indicators, child protection, safeguarding or vulnerability concerns, you must refer the application to the Child Protection and Safeguarding team (CPST) through the local CFT.

If the commissioning parents refuse to provide a statutory declaration, you must tell them we cannot issue the child's passport until they do.

However, if a child born through surrogacy, needs a passport issued for an urgent or compassionate need or to return to the UK. But it will take time for the commissioning parents to obtain any other option available to them. We may consider consent to issue the passport, from the surrogate mother or her husband, wife or civil partner.

If we received this, you must send a guidance referral to confirm we can accept their consent.

Consent: surrogate child's renewal or replacement

When dealing with a renewal or replacement passport application and the previous application shows the child was born through surrogacy, you will find a commissioning parent will have provided their consent for the passport to be issued. The actions you take will depend on:

- if the CFT has returned the application to examination after deleting a watchlist entry in the child's details that shows the commissioning parents were not the legal parents at the time we issued their previous passport
- who gave consent for the child's previous passport, their relationship to the child and in what capacity
- the documents sent in to support the renewal or replacement application

If someone (who is not the commissioning parents) has applied for a passport for a child born through surrogacy, you must send a guidance referral to confirm we can accept their consent.

You may receive an application to renew or replace a passport for a child born through surrogacy, from the:

- CFT, because they have deleted a watchlist entry as the commissioning parents are not the child's legal parents at the time, we issued their previous passport
- customer, because we did not previously add a watchlist entry

When dealing with the application, you must check:

- who has consented to the renewal or replacement application (usually this will be one of the commissioning parents)
- if there is a document that shows the commissioning parent is the child's [legal parent](#) (for example, a UK parental order)
- for any passport records, case notes and scanned documents on Main Index, to see who consented to the child's previous passport and in what capacity (unless the documents provided show the commissioning parent is the legal parent)

Consent for renewal or replacement: evidence provided

If the commissioning parents have provided documents (for example, a UK parental order) to support an application to renew or replace a passport for a child born through surrogacy, you must confirm they are the child's [legal parent](#) and:

1. Accept they have parental responsibility and can consent to a passport for the child, as long as they are named on the document confirming they are the child's legal parent.
2. Add a case note to show the actions and decisions you made.

3. If dealing with an application on the Application Management System, keep a scan of the document confirming they are the child's legal parent. See How to keep scans of supporting documents guidance.
4. Continue to deal with the application [in line with other sections of this guidance](#) and the lost, stolen and recovered examiner guidance (if the child's passport is lost or stolen).

Consent for renewal or replacement: no evidence provided

If you cannot confirm the commissioning parents have parental responsibility from the documents provided, you must check the passport records, case notes and scanned documents on Main Index (MI) to see:

- who consented to the child's previous passport
- their relationship to the child
- in what capacity

You must make sure the commissioning parents consenting to the current application is named as legal parent on the child's:

- UK parental order
- UK or overseas adoption order
- other evidence from an overseas court (which recognises them as the child's legal parent)

If MI confirms the commissioning parents are the child's legal parent, you must:

1. Accept they have parental responsibility and can consent to a passport for the child, as long as they are named on the document confirming they are the child's legal parent.
2. Add a case note to show the actions and decisions you made.
3. If dealing with an application on the Application Management System, keep a scan of the document confirming they are the child's legal parent. See How to keep scans of supporting documents guidance.
4. Continue to deal with the application, [in line with other sections of this guidance](#) and the lost, stolen and recovered examiner guidance (if the child's passport is lost or stolen).

If MI does not confirm the commissioning parents are the child's legal parent, you must ask the commissioning parents for evidence to confirm they are the legal parent (for example, a UK parental order).

If the commissioning parents send us evidence to confirm they are the legal parent, you must follow [consent for renewal or replacement: evidence provided](#).

If the commissioning parents cannot give us evidence to show they are the legal parent, you must not draw any negative conclusions and refer to:

- [consent: commissioning parent named on birth certificate](#) (if the commissioning father or second legal parent is named on the child's full birth certificate)
- [consent: commissioning parents do not have parental responsibility](#)

Consent for renewal or replacement: no one has parental responsibility

You must use this section if:

- you have followed the [consent for renewal or replacement: no evidence provided](#) section
- the commissioning parents cannot give us evidence to show they are the legal parent

The commissioning parents will not have parental responsibility for the child born through surrogacy, if they:

- are not the child's [legal parents](#) (for example, they do not have a UK parental order)
- cannot meet the requirements to become the child's legal parents (for example, they are not in the UK)
- are not named on the child's full birth certificate (father or second legal parent only)

When this happens:

- the commissioning parents will be acting 'in loco parentis' (in place of parents) for the child (until they become the child's legal parent)
- either commissioning parent can consent to the child's passport application (this is an exceptional situation because there is no other person who has parental responsibility for the child)
- we may have previously received the consent from the surrogate mother and her husband, wife or civil partner
- we may have previously asked the commissioning parents to provide a statutory declaration to show they had responsibility for the child

You must check the child's previous passport records, case notes and scanned documents on MI to see if the commissioning parents previously provided a suitable statutory declaration that showed they had responsibility for the child.

If our records confirm the commissioning parents sent us a suitable statutory declaration and consent when we issued the child's previous passports, you must:

1. Accept the commissioning parents' consent to a passport (as long as they are named on the statutory declaration).
2. Add a case note to show the actions and decisions you made including if:
 - you did not receive any documents to confirm they are the child's legal parent

- the person applying for the passport is not the child legal parent for parental responsibility
- 3. If dealing with an application on the Application Management System, keep a scan of the child's full birth certificate and the statutory declaration provided. See How to keep scans of supporting documents guidance.
- 4. Continue to deal with the application, [in line with other sections of this guidance](#).

If you have any fraud, risk indicators, child protection, safeguarding or vulnerability concerns, you must refer the application to the Child Protection and Safeguarding team (CPST) through the local CFT.

If our records confirm the commissioning parent did not send us a suitable statutory declaration when we issued the child's previous passport(s), you must follow: [Consent: commissioning parents do not have parental responsibility](#).

However, if a child born through surrogacy, needs a passport issued for an urgent or compassionate need or to return to the UK and all other options available to the commissioning parents take time to get, we may accept consent from the surrogate mother or her husband, wife or civil partner. If you receive this, you must send a guidance referral to confirm you can accept their consent.

Related content

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Surrogacy: supporting documents required

This section tells HM Passport Office staff what documents we need to process a passport application for a child born in surrogacy.

To support an application for a child (born through surrogacy) and there is UK parental order granted to their [commissioning parents](#), the customer must provide standard (core) documents.

As a minimum the customer must send:

- either the:
 - UK parental order naming the child and their commissioning parents
 - child's full birth certificate, issued after the UK parental order was granted
- proof that the child has a claim to [British nationality](#)
- if applicable, the travel document used for the child to leave their country of birth on and entered country of residence

You, the examiner, must make sure the persons named in the documents, match the persons named on the application submitted.

Documents needed: no UK parental order

If the child was born through surrogacy, in the UK, it is recommended that the commissioning parents apply for a UK parental order, if they have not already been granted one, where it is relevant, and they are able to do so.

However, you must still deal with a passport application if the commissioning parents do not have a UK parental order and the child is born:

- in the UK but has an urgent need to travel
- overseas and there is a need to leave their country of birth to go to the country the commissioning parents are resident (for example, the UK)

If the application does not have a UK parental order, we need:

- the child's original full birth certificate, issued by the relevant authority
- the child's re-registered full birth certificate (if applicable)
- the child's travel document used for them to leave their country of birth on and entered country of residence (if applicable)
- documents signed by all parties regarding [the surrogacy agreement](#), including:
 - any legal agreements
 - the consent letter from commissioning parents confirming a third party can act on their behalf if the surrogacy agreement includes a power of attorney

- a court order that recognises a British parent as the child's parent, even though they may not be biologically linked to the child (for example, a pre or post birth court orders issued in the country where the surrogacy procedure and birth took place)
- medical documents from the surrogacy organisation about any fertility treatment that show a biological link between the commissioning parents and the child born and the details surrounding the surrogacy (for example, a letter from the clinic where it took place or voluntary DNA evidence)
- documents confirming the identity of the surrogate mother and her husband, wife or civil partner (if applicable)
- documents (colour copies are acceptable) confirming marital status of the surrogate mother's and her husband, wife or civil partner, marital status and identity at the time of the treatment, for example, the surrogate mother's:
 - birth certificate and recent identification document (ID), as these can show either a change of name or her marital status
 - marriage certificate and husband, wife or civil partner's death certificate to prove she is a widow
 - a divorce certificate and marriage certificate issued before the treatment to show she is divorced
 - affidavit and a letter from the official authorities confirming that she has never been married
- a signed letter, dated 6 weeks after the child's birth from the surrogate mother (and if applicable, her husband, wife or civil partner) confirming they have given up any rights to the child in line with local laws and the child can travel with the commissioning parents
- this letter does not transfer any rights legally but it supports the fact the surrogate parents have handed over the child to the commissioning parents
- documents confirming the commissioning parents' identity and marital status (if applicable)
- if the surrogate is unmarried, can we confirm the commissioning father is the child's legal father (for example, he is named on the child's UK full birth certificate)
- proof that the child has a claim to [British nationality](#)

Surrogacy agreements

A surrogacy agreement is made to confirm the intentions of everyone involved in the surrogacy. It can cover:

- the actions of an agent or clinic
- the actions of a surrogate mother, for example:
 - her intentions to hand the child over to the commissioning parents after the birth
 - a declaration of marital status and actions during pregnancy
 - the actions of the commissioning parents (for example, they will cover any medical expenses)
 - where treatment and birth of the child will take place
- the type of treatment that will take place
- the costs involved (for example how and when paid)

- any specific actions to be taken pre or post birth
- any specific laws in the country the surrogacy has taken place in, the people involved must follow

Under UK law, surrogacy agreements are not legally binding or enforceable (they are not required to be kept to by law). This can mean a surrogate mother can change her mind and not give the child to the commissioning parents.

There may be applications received that do not have a formal surrogacy agreement but have other documents to recognise the arrangement (for example a pre or post birth court order).

There may also be applications that have none of these documents to confirm a [surrogacy arrangement](#).

We must not draw any negative conclusions if evidence shows a surrogacy agreement does not comply with UK law. For example, the evidence shows a surrogacy is a commercial agreement with significant amounts of money paid to the surrogate mother.

You must deal with the application using this guidance, considering, does the child have a claim to British nationality and can the person who has applied give consent to the issuing of a passport?

Surrogacy: no birth certificate

There may be applications received that do not have a birth certificate issued to the commissioning parents or surrogate parents. For example, the commissioning parents are a same-sex couple and the birth happened in a country that does not recognise same-sex couples and will not produce a birth certificate.

You must refer the application to an appropriately trained examiner or your operational team leader (OTL) who will review the application and assess the case on a balance of probabilities, in line with our supporting documents not available guidance.

You (the appropriately trained examiner or OTL) can ask for support from the Quality and Examination Support team (QuEst).

If an application is being considered for withdrawal or refusal, you must send a guidance referral for advice on the application. After a decision is made, you must continue to [process the application](#), in line with the other sections of this guidance.

Surrogacy: documents are not available

You must not automatically reject a passport application involving surrogacy if you are considering withdrawing the application because of lack of documents or evidence to support the child's claim.

You must refer the application to an appropriately trained examiner or your operational team leader (OTL) who will review the application and assess the case on a balance of probabilities, in line with our supporting documents not available guidance.

You (the appropriately trained examiner or OTL) can ask for support from QuEST.

If an application is being considered for withdrawal or refusal, you must send a guidance referral for advice on the application. After a decision is made, you must continue to [process the application](#), in line with the other sections of this guidance.

Related content

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Surrogacy: how to deal with an application

This section tells HM Passport Office examiners dealing with an application involving a surrogacy agreement, how to examine the application.

You (the examiner) must be aware there are differences in the documents a customer can send to support an application involving surrogacy.

There are also potentially higher risks if the surrogacy took place in a country where surrogacy is unregulated than there would be if it took place in the UK, where there are stricter regulations on surrogacy.

Processing an application involving surrogacy: Application Management System

When dealing with an application involving a child born through surrogacy on the Application Management System (AMS), you must:

1. Carry out any watchlist checks required.
2. Complete a manual Main Index (MI) check for a previous British passport using any undeclared details (for example the child's details shown on any documents).
3. Confirm the child's, surrogate mother's (if applicable) and commissioning parents nationality, identity, and entitlement to a passport (in line with this and any other nationality guidance).
 - if the child appears to have no claim to British nationality, see [Nationality: surrogate child has no claim, refer to UKVI](#)
4. Confirm the person who gave consent to the issuing of the passport, can apply for a passport on the customer's behalf, their identity and has parental responsibility.
5. Check for any surrogacy considerations for the country the child is born in (see Knowledge Base).
6. Check that:
 - [all the required documents](#) have been provided (for example, the surrogacy arrangement documents have been provided) unless the application has a UK parental order and a new birth certificate
 - if documents are not available, see [surrogacy: documents are not available](#)
 - the documents provided are original, from a reliable source or have been sent in using Local Services
7. Check for any safeguarding (child protection), vulnerability concerns and risk indicators before you issue a passport, as:
 - if you have any fraud, risk indicators, child protection, safeguarding or vulnerability concerns, you must refer the application to the Child Protection and Safeguarding team (CPST) through the local CFT

- there may be country specific concerns and requirements (see Knowledge Base)
- 8. Add a case note to show all the actions and decisions you made.
- 9. Continue to process the application (for example, issue a passport if you are satisfied from the information and evidence and you have no safeguarding, parental responsibility, nationality, identity, entitlement or vulnerability concerns).

If a decision is made not to issue the child with a British passport and confirmed using a guidance referral to QuESt, 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)

Processing an application involving surrogacy: Digital Application Processing

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.
2. Check for any surrogacy considerations for the country the child is born in (see Knowledge Base).
3. Check that:
 - [all the required documents](#) have been provided (for example, the surrogacy arrangement documents have been provided) unless the application has a UK parental order and a new birth certificate
 - if documents are not available (see [surrogacy: documents are not available](#))
 - the documents provided are original, from a reliable source or have been sent in using Local Services
4. Check for any safeguarding (child protection), vulnerability concerns and risk indicators before you issue a passport:
 - if you have any fraud, risk indicators, child protection, safeguarding or vulnerability concerns, you must refer the application to the CPST through the local CFT
 - there may be country specific concerns and requirements (see Knowledge Base)
5. Complete a manual MI check for a previous British passport using any undeclared details (for example the child's details shown on any documents provided).
6. Confirm the child's, surrogate mother's (if applicable) and commissioning parents' nationality, identity, and entitlement to a passport, in line with this and any other nationality guidance
 - if the child appears to have no claim to British nationality, see [Nationality: surrogate child has no claim, refer to UKVI](#)
7. Confirm the person who has given consent can apply for a passport on the customer's behalf, their identity and has parental responsibility.

8. Case note to show all the actions and decisions you have made on the appropriate tasks.
9. Continue to deal with the application. For example, any other tasks or issue a passport, if you are satisfied from the information and evidence that the child is entitled to a British passport and you have no safeguarding, parental responsibility, nationality, identity, entitlement or vulnerability concerns.

If you are unsure how to deal with an application involving surrogacy or if DAP does not have the functionality to deal with 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 Operational Team Leader actions guidance.

If a decision is made not to issue the child with a British passport and confirmed using a guidance referral to QuEST, 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)

Surrogacy case: FCDO want to issue an Emergency Travel Document

There are occasions when colleagues in the Foreign, Commonwealth and Development Office (FCDO) contact us (HM Passport Office) about issuing an Emergency Travel Document (ETD) to a child, born through surrogacy in their country, because the child or family needs to travel urgently.

To issue an ETD, the FCDO will ask us to provide a nationality status for the child. If:

- the application is on the DAP system, you must send it to AMS
- there is not an application for the child on the system, you must ask for a completed paper overseas application (OS) form

To process the FCDO's request, you, the examiner must:

1. Look at the passport application and supporting documents to confirm the child's claim to British nationality, using a balance of probabilities (if needed).
2. Carry out a watchlist check on the child, the surrogate mother and the commissioning parents.
3. Make sure you have an electronic copy of the documents supporting the application, as the FCDO may ask to be emailed a scanned copy of them.

If you are satisfied with the application and there are no other concerns, you must send an email to FCDO ETD and copy in the HM Passport Office international team, that:

- explains we cannot issue a passport to the customer
- confirms how the child has a claim to British nationality (you must indicate the section of the British nationality act that the child has a claim under)

When you have sent the email, you must:

1. Add a case note to the passport application to:
 - say the family have approached FCDO in [country] for an ETD
 - that you've notified FCDO of the child's nationality status
 - what documents you sent to the FCDO (if you sent any)
2. Add an alert to say 'awaiting contact from the family and confirmation of UK address – ETD issued'
3. Tell the customer:
 - you will keep their application on hold
 - to contact us when they can send in the ETD
4. Keep the application in pigeonhole.
5. Regularly keep in contact with the customer to check when they can send in the ETD for us to continue with their application.

When the customer sends in the ETD, you must [deal with their application](#) to issue a passport with the help of this guidance.

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