



Home Office

## Guide ARD

# Registration as a British citizen – Special circumstances

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# About this guidance

This guidance aims to help you decide if you would be able to make a successful application for British citizenship, through registration under section 4L of the British Nationality Act 1981. For your application to succeed you will need to show that you satisfy the requirements of that section, which are set out in British nationality law. It is not a complete statement of the law or policy but should answer routine questions you may have on the requirements and our processes.

Becoming a British citizen is a significant life event. Apart from allowing you to apply for a British citizen passport, British citizenship gives you the opportunity to participate more fully in the life of your local community.

Your right to registration is a matter of law as set out in the [British Nationality Act 1981](#). The Home Secretary may only register you if you satisfy a number of statutory requirements. This guide helps you to understand them.

## Before applying

Before proceeding with your application, you should be aware that the nationality laws of some countries do not allow dual or multiple citizenship and you may therefore lose, or have to give up, your existing nationality in order to become a British citizen. If you have any questions about this, you should seek advice from the country of which you are a citizen before making your application. If the country of which you are currently a citizen continues to recognise you as one of its citizens, you may continue to be subject to the duties of citizens of that country when you are in its territory.

If you are a British Overseas Territories citizen, a British National (Overseas), a British Overseas citizen, or a British subject from Ireland (under section 31 of the British Nationality Act 1981), registration as a British citizen will not cause you to lose that status.

However, if you are a British subject from a location other than Ireland, or a British protected person, you will automatically lose that status on being registered as a British citizen.

**Please note, a nationality application does not provide any immigration status while it is being considered. Where relevant, you must ensure you have valid permission to stay in the UK until you have had a decision on your application and attended your citizenship ceremony.**

## The Windrush Scheme

The Windrush Scheme is for people who arrived in the UK many years ago and do not have documentation confirming their immigration status. If you are eligible under the Windrush Scheme you should use the form available from GOV.UK, see [www.gov.uk/government/publications/undocumentedcommonwealthcitizensresident-in-the-uk](http://www.gov.uk/government/publications/undocumentedcommonwealthcitizensresident-in-the-uk).

There is no charge for applications made under the Windrush Scheme.

## OISC and Immigration Advice

You may, if you wish, use the services of an agent such as a solicitor or other competent adviser to help you with your application.

In the UK, nationality advice should only be provided by a person who works for an organisation registered with, or exempted by, the OISC or who is authorised to practise (like solicitors and barristers) by a designated professional body. Certain categories (for example public health bodies) are exempted from the regulatory scheme by Ministerial Order.

It is a criminal offence to provide advice or services in contravention of the regulatory scheme. Further information about the regulatory scheme and a full list of OISC regulated advisers is available on its website at [www.oisc.gov.uk](http://www.oisc.gov.uk).

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# The requirements you have to meet, and the citizenship you will acquire if your application is successful

## The requirements

The law covering registration is contained in the British Nationality Act 1981. This guide is intended to help you to apply, though it is not a complete statement of the law or policy.

Section 4L was introduced to create a route to British citizenship where the Home Secretary considers you would have been, or would have been able to become, a British citizen, but for one or more of three specific reasons which are set out in statute and are explained in more detail below. The registration provision was introduced under the Nationality and Borders Act 2022, along with other measures intended to correct historical unfairness in nationality law.

The legal requirements you should meet before you apply are that you:

- Are aged 18 or over
- Are of full capacity – this means you are of sound mind
- (For a detailed explanation of how “full capacity” is interpreted for the purposes of the Act, and how the requirement to be of full capacity may be waived in certain circumstances see the [full capacity requirements](#) guidance.)
- In the Home Secretary’s opinion you would, or would have been able to become, a British citizen but for—
  - historical legislative unfairness
  - an act or omission of a public authority
  - exceptional circumstances relating to you

In considering whether to grant an application under this section, the Secretary of State may take into account whether you are of good character.

A person who is registered under this provision will become a British citizen otherwise than by descent. British citizens otherwise than by descent are able to pass on British citizenship to any children born outside British territory.

Our caseworker guidance (please see the following [link](#)) and the [examples](#) provided in this guidance set out how we consider applications under this provision and both it, and this guidance, give some examples of how they might be considered.

This provision is not intended to be an alternative to meeting the requirements for naturalisation or registration under another route. You can be registered if you can show that you did not become, or were not able to become, a British citizen as a **direct** result of historical legislative unfairness, an act or omission of a public body, or exceptional circumstances relating to you. If you do not meet one of those, you may wish to consider whether there is another way you can apply to become a British citizen.

## Historical legislative unfairness

Our guidance [Historical background information on nationality](#) contains information about past nationality laws.

You may have been subject to “historical legislative unfairness” if you would have become, or not ceased to be, a British subject, citizen of the United Kingdom and Colonies or British citizen, if the law at the time had:

- treated men and women equally
- treated children of unmarried couples in the same way as children of married couples
- treated children of couples where the mother was married to someone other than the natural father in the same way as children of couples where the mother was married to the natural father

If you think you missed out on British citizenship because women could not pass on citizenship at the time of your birth, or because your parents were not married, you may already be able to apply for citizenship under a specific route. Further information can be found on our [website](#).

There may be other examples of historical legislative unfairness. To determine whether other cases could fall within this category, we would consider whether the legislation concerned treated one group differently to another, particularly on the basis of a protected characteristic - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation.

You may feel that you missed out unfairly on British citizenship because of the time you were born. For example, the law changed on 1 January 1983, and if you were born on or after that date you may not have become a British citizen whereas someone born before that date would. However, this was a conscious decision by Parliament to limit British citizenship to those with a close and continuing connection with the UK. Citizenship was only acquired automatically by those born in the UK to a parent who was British or settled

at the time of their birth. The law was not unfair in that all individuals born in the UK after this date were treated equally.

In the same way, you may feel you missed out if you were originally a citizen of the United Kingdom and Colonies and lost that status when the country you were born in became independent. However, changes on independence applied to all those connected to a territory and reflected the intention of Parliament and the government of that country. We do not consider the introduction of the British Nationality Act 1981 itself, or the independence of a territory, to constitute historical legislative unfairness. You should note that some Commonwealth citizens who are members of the Windrush generation are able to apply under the [Windrush Scheme](#).

If you think that you missed out on being, or being able to become, a British citizen because of historical legislative unfairness, you need to clearly set out in your application form:

- the legislation and section you think was unfair
- how you would otherwise have been, or been able to become, a British citizen

## Act or omission of a public authority

For the purposes of this provision, a “public authority” means a person whose functions are of a public nature.

It can include, but is not limited, to:

- a government department
- local authority

It does not include:

- a court or tribunal
- either House of Parliament
- a person exercising functions in connection with proceedings in Parliament (for example, MPs and members of the House of Lords)

If you think that you missed out on being, or becoming, a British citizen because of an act or omission of a public authority, you need to clearly set out in your application form:

- what that act or omission was and which public authority was responsible



- how you would otherwise have been, or been able to become, a British citizen had it not been for that act or omission – state the legislation and section you would have qualified under

## Exceptional circumstances

You may be able to be registered under this provision if you did not become, or were unable to become, a British citizen because of your specific circumstances – if those circumstances were exceptional. You will not normally qualify if you are applying under this section just because you do not meet the requirements for other routes. You would need to show that there were particular and exceptional circumstances that *directly* prevented you from being, or being able to become, a British citizen.

Please refer to the following [examples](#) of the sort of exceptional circumstances where it might be appropriate to register an individual under this route. Please note, however, that each case will be considered on its own merits.

If you think that you missed out on being, or being able to become, a British citizen because of exceptional circumstances relating to you, you need to clearly set out in your application form:

- what your exceptional circumstances were
- how you would otherwise have been, or been able to become, a British citizen – state the legislation and section you would have qualified under

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## Good character

The British Nationality Act 1981 contains a statutory requirement that those seeking to register as British must be of good character. This means you must observe UK laws and show respect for the rights and freedoms of its citizens.

Before you complete this section, you are advised to refer to the good character policy guidance which caseworkers use to decide your application. This is available on the GOV.UK [website](#).

Checks will be carried out to ensure that the information you provide is correct. This may include checks with other government departments such as HM Revenue and Customs. If you are not honest about the information you provide, and you are registered on the basis of incorrect or fraudulent information you will be liable to have your British citizenship taken away (deprivation) and you may be prosecuted. It is a criminal offence to make a false declaration knowing that it is untrue.

## Criminality

You must give details of all criminal convictions in the UK and overseas. This includes if you went to prison, or you received a non-custodial sentence such as a suspended sentence. You should also include any out-of-court disposal such as a fine, a caution, a warning or reprimand, a community sentence, a civil order, a civil penalty, a civil judgment, a hospital order or a restriction order. All fiscal fines must also be disclosed. If you are not sure, you should declare all penalties or orders.

Fixed penalty notices such as those issued under the coronavirus Regulations, or for traffic offences such as speeding or parking tickets must also be disclosed, although will not normally be taken into account unless you have failed to pay and there were criminal proceedings as a result, or you have received multiple fixed penalty notices in a short space of time.

Where a fixed penalty notice or fiscal fine in Scotland has been referred to a court due to non-payment, or the notice has been unsuccessfully challenged by the person in court, we will consider it as a conviction and assess it in line with the new sentence imposed.

Drink driving must also be declared. If you have any endorsements on your driving licence you must access the [DVLA website](#) to download and print a summary of your record and send it with your application, or provide the paper counterpart.

Criminal record checks will be carried out in all cases. If you have been charged with a criminal offence and are awaiting trial or sentencing, you are advised not to make any application for registration until the outcome is known.

You must give details of all civil judgments which have resulted in a court order being made against you, as well as any civil penalties under the UK Immigration Acts. For applicants from Scotland any recent civil penalties must also be declared. If you have been declared bankrupt at any time you should give details of the bankruptcy proceedings. (Your application is unlikely to succeed if you are an undischarged bankrupt).

You do not need to give details of family law proceedings such as divorce decrees, dissolved civil partnerships, guardianship orders, and parental responsibility orders.

You must also tell us if you have any children who have been convicted of an offence or who have received a court order.

You must say if your details have been recorded by the police as a result of certain sexual offences, or if you are subject to one of the following orders: notification order, sexual offences prevention order, foreign travel order, risk of sexual harm order (or equivalent order made in a British overseas territory or any other country).

You must say if there is any offence for which you may go to court, or which is awaiting hearing in court. This includes having been arrested for an offence and waiting to hear if you will be formally charged. If you have been arrested and not told that charges have been dropped, or that you will not have to appear in court, you may wish to confirm the position with the police. You must tell us if you are arrested or charged with an offence after you make your application and while the application is under consideration. You risk prosecution under section 46 of the British Nationality Act 1981 if you do not do so.

## Terrorism and International Crimes

You must say whether you have had any involvement in terrorism or whether you have been involved in any crimes in the course of armed conflict, including crimes against humanity, war crimes or genocide, or if you are the subject of an international travel ban. If you are in any doubt as to whether something should be mentioned, you should mention it.

This guidance is not exhaustive. Before you answer these questions, you should consider the full definitions of war crimes, crimes against humanity and genocide which can be found in Schedule 8 of the [International Criminal Court Act 2001](#).

Alternatively, copies can be purchased from: [The Stationery Office \(TSO\)](#).

It is your responsibility to satisfy yourself that you are familiar with the definitions and can answer the questions accurately.

**Genocide** - acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group.

**Crimes against humanity** - acts committed at any time (not just during armed conflict) as part of a widespread or systematic attack, directed against any civilian population with knowledge of the attack. This would include offences such as murder, torture, rape, severe deprivation of liberty in violation of fundamental rules of international law and enforced disappearance of persons.

**War Crimes** - grave breaches of the Geneva Conventions committed during an armed conflict. This includes an internal armed conflict and an international armed conflict. The types of acts that may constitute a war crime include wilful killing, torture, extensive destruction of property not justified by military necessity, unlawful deportation, the intentional targeting of civilians and the taking of hostages.

**Travel bans** - travel bans restrict the movement of individuals associated with regimes or groups whose behaviour is considered unacceptable by the international community.

**Terrorist Activities** - any act committed, or the threat of action, designed to influence a government or intimidate the public and made for the purpose of advancing a political, religious or ideological cause and which involves serious violence against a person or which may endanger another person's life; creates a serious risk to the health or safety of the public; involves serious damage to property; is designed to seriously disrupt or interfere with an electronic system.

**Organisations concerned with terrorism** - an organisation is concerned with terrorism if it:

- commits or participates in acts of terrorism,
- prepares for terrorism,
- promotes or encourages terrorism (including the unlawful glorification of terrorism), or
- is otherwise concerned with terrorism.

## Financial soundness

You must tell us if you have ever been declared bankrupt, found to have unreasonably failed to pay your council tax, engaged in fraud in relation to public funds (including

claiming public funds to which you were not entitled or were prohibited from accessing, or failing to declare your full circumstances), or have an unpaid NHS debt of £500 or more.

## Deception

You must tell us if you have practised deception in your dealings with the Home Office or other government departments (for example, by providing false information or fraudulent documents).

## What if you haven't been convicted but your character may be in doubt?

You must say if there is any offence for which you may go to court, or which is awaiting hearing in court. This includes having been arrested for an offence and waiting to hear if you will be formally charged. If you have been arrested and not told that charges have been dropped, or that you will not have to appear in court, you may wish to confirm the position with the police. You must tell us if you are arrested or charged with an offence after you make your application and while the application is under consideration. You risk prosecution under section 46 of the British Nationality Act 1981 if you do not do so

You must say whether you have been involved in anything which might indicate that you are not of good character. You must give information about any of these activities no matter how long ago it was. Checks will be made in all cases and your application may fail and your fee will not be refunded if you make an untruthful declaration. If you are in any doubt about whether you have done something, or it has been alleged that you have done something, which might lead us to think that you are not of good character, you should say so.

## What if you consider that you have mitigating factors?

You can also tell us about any genuine, meaningful attempts to change your behaviour and comply with the law. For example, any voluntary or charity work you participate in, or where you have engaged with programmes or activities aimed at addressing the cause of your offending such as treatments aimed at reduction of alcohol consumption, drug dependency or anger management courses.

You can tell us about this in the 'further information not covered in other sections' box on your application.

# Referees

Your application must be endorsed by 2 referees.

One referee can be of any nationality but must be a [professional person](#). A professional person could include:

- a minister of religion
- civil servant
- a member of a professional body such as an accountant or a solicitor (but not one who is representing you with this application).

The other referee must be the holder of a British citizen passport and either a [professional person](#) or over the age of 25.

Each referee must have known you for at least 3 years.

Each referee must not be:

- related to you
- related to the other referee
- your solicitor or agent representing you with this application
- employed by the Home Office

We will not usually accept a referee who has been convicted of an imprisonable offence during the last 10 years.

Checks may be carried out to ensure that the referees do not have unspent convictions and are qualified to act for you and that their signatures are genuine. It is a criminal offence to provide false information knowingly or recklessly, punishable with up to 3 months imprisonment or by a fine not exceeding £5,000 or both under section 46(1) of the British Nationality Act 1981.

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# Biometric Enrolment

As part of your application, all applicants are required to enrol their biometric details for the purpose of identity verification.

Where you give your biometric information depends on how you are making your citizenship application. You will be told where to go after you have applied.

Your application may be rejected as invalid if you do not enrol your biometrics when requested. For more information about enrolling biometrics, please visit the following section of our website: <http://www.gov.uk/biometricresidence-permits>.

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# Understanding the process

Please ensure you have the correct documents before you apply. If you do not submit your application with supporting documents and pay the correct [fee](#) (if applicable – see [below](#)), then the application will be returned to you unprocessed. You should indicate in the space provided what documents you have supplied and why.

## **Dual nationality**

Dual nationality (sometimes called [dual citizenship](#)) is when someone holds British nationality and the nationality of at least one other country at the same time.

The UK recognises dual nationality and allows British nationals who have dual nationality, to hold a British passport.

Before applying, you should be aware that not all countries allow dual citizenship and you may therefore lose, or have to give up, your existing nationality in order to become a British citizen. If you have any questions about this, you should seek advice from the country of which you are already a citizen before making your application.

## **Documents**

Please send the following documents:

- Your passport
- Information to show how you would have been, or would have been able to become, a British citizen. This might include:
  - Your full birth certificate (one which includes the name of your parent(s))
  - your mother or father's birth certificate and evidence of their status at the time of your birth
- Information relating to an act or omission of a public authority, if you are applying on that basis
- Evidence of your exceptional circumstances, if you are applying on that basis

Please provide any translations if these are applicable.



## Fees

Fees are payable in accordance with [The Immigration and Nationality \(Fees\) Regulations 2018](#). There is no application fee to apply for British citizenship if you would have acquired that status *automatically* (but for historical legislative unfairness, an act or omission of a public authority, or exceptional circumstances), but you will need to pay the ceremony [fee](#) if you are over the age of 18. You need to send this with your application, using the [payment slip](#).

If, however, you would have qualified for registration or naturalisation but for legislative unfairness, an act or omission of a public authority or exceptional circumstances, you will still need to pay an application fee to register under this route, as well as a ceremony fee. Fees are listed on our [fees page](#).

## Biometric Enrolment

All applicants applying for British citizenship will need to enrol their biometric details to verify their identity as part of the application process. You will usually need to complete this step of the application process within 45 days of submitting your application and failure to do so would invalidate your application.

You will be provided with instructions explaining where and how you need to enrol your biometric information after you have submitted your application. We may be able to re-use biometrics previously provided with earlier immigration applications.

## Application Processing Times

We aim to conclude citizenship applications within 6 months from the date on which we receive your application. Please do not contact us within this timeframe to request an update on your application – we will get in touch if we need any more information to help us make a decision.

You will usually get a decision on your application within 6 months – but some applications may take longer. If we expect that it will take longer than 6 months to decide your application, we will contact you to advise of this.

## Travel after submitting an application

After submitting your registration application, you are free to travel whilst you are waiting for a decision using your valid travel documents. If you are resident in the UK,

this will be your valid passport and evidence of your valid indefinite leave to remain in the UK, or other valid immigration status. You do not need to tell us about your travel plans.

Please be aware, however, that you will usually be required to [enrol your biometric information](#) within 45 days of submitting your application. If you are in the UK, this may involve attending an appointment at a UK Visa and Citizenship Application Service (UKVCAS) Centre (operated by Sopra Steria) in person and failure to do so would invalidate an application.

You will receive instructions on how to provide your biometric details once you have submitted your application.

In addition, please note that should we grant an application, there is a 90-day period where you will need to arrange attendance at a [citizenship ceremony](#).

But, outside of these timeframes, there is nothing in the citizenship process that would prevent you from travelling while your application is being considered.

If you live in the UK, please bear in mind that a registration application does not provide you with immigration permission and you will need to demonstrate your entitlement to re-enter the UK at the UK border.

You should ensure that we are able to contact you quickly if we have any queries about your application.

## Citizenship Ceremonies

### **Arranging a citizenship ceremony**

If your application is successful, you will be invited to attend a citizenship ceremony if you are over 18. If you are in the UK, you will receive an invitation from the Home Office, and this will confirm the local authority you should contact to arrange your ceremony.

Your ceremony invitation may be sent to you via email if you have applied online and we recommend checking your email's spam or junk folder for any correspondence about your application.

You must make immediate contact with the local authority once you have been informed that your application is successful, as we normally expect you to arrange to attend a ceremony within 3 months of receiving your invitation otherwise it will expire, and you will have to re-apply for registration and pay a further processing fee. The date by which you

must attend your ceremony will be given in your Home Office citizenship ceremony invitation.

If you are outside the UK, arrangements will be made for you to make the oath/affirmation and pledge at the British Embassy, High Commission, Consulate, Governor's Office, or Lieutenant Governor's Office.

### **At the ceremony**

If you are over the age of 18, you will be asked to affirm or swear an Oath of Allegiance to the Monarch and to pledge your loyalty to the UK. This is a legal requirement for adults and is the point at which you will become a British citizen.

Following this you will be presented with your certificate of registration as a British citizen.

If you have special needs or concerns about saying the Oath (or Affirmation) and Pledge in English, you should bring these to the attention of the local authority or, if outside the UK, the British Embassy, High Commission, Consulate, Governor's Office, or Lieutenant Governor's Office, once you have received your invitation.

If you are resident in the UK, you must ensure you have sufficient immigration permission to remain in the UK until you have attended your ceremony and made the Oath and Pledge. A citizenship application does not, in itself, give permission to stay in the UK.

## **Next steps**

### **What to do if there is an error on your citizenship certificate**

If you notice a mistake on your citizenship certificate, you will need to download and complete an [application for a correction of a registration or naturalisation certificate](#). You will then need to send the form and your original certificate to the following address:

Department 201  
UKVI  
The Capital  
New Hall Place  
Liverpool  
L3 9PP

You may need to pay to change the details on your certificate, depending on if the mistake is your fault (for example, if you provided incorrect details when you applied). UKVI will send you a letter telling you if you need to pay.

## **Returning your Biometric Residence Permit (BRP)**

If you hold a Home Office issued immigration document, such as a BRP (or BRC), you should return it to the Home Office within 5 working days of getting your certificate of British citizenship.

Please cut your BRP/BRC into 4 pieces and put it in a windowless envelope.

Please enclose a note saying you are returning your permit because you have become a British citizen. Include your name, date of birth and the document number (found on the front of the card) in the note.

Naturalisation BRP Returns

PO Box 195

Bristol

BS20 1BT

Please note that you may be fined up to £1,000 if you do not return your permit within 5 working days.

## **Travelling to and from the UK after registering**

Once you become a British citizen, you will no longer be able to enter the UK using your BRP or digital status, or by presenting your citizenship certificate at the UK border.

For travel purposes, you can [apply for a British passport](#) or for a [certificate of entitlement to the right of abode](#) that can be placed in a valid foreign passport.

Please refer to GOV.UK for information on [how long it may take to get a British passport](#) or [how long it may take to get a certificate of entitlement to the right of abode](#). You may wish to consider this before applying for citizenship (for example, if you have plans to travel outside of the UK).

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# Citizenship-related queries

If, having read the information set out in this guidance, you have questions about applying for British citizenship, you can email the Citizenship and Nationality Enquiries team at [nationalityenquiries@homeoffice.gov.uk](mailto:nationalityenquiries@homeoffice.gov.uk).

You should also contact them to let them know if you have made an application and your circumstances change (for example, you move house, get married or are arrested).

If you have not had a response, we recommend checking your email's spam or junk folder before contacting UKVI again.

Alternatively, you can get in touch via telephone on 0300 790 6268. You will need to select option 2, then option 2 again. You can get in touch Monday to Thursday from 9am to 4:45pm, or Friday, 9am to 4:30pm. Information about call charges can be found [here](#).

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# Case studies

The following are fictional examples that illustrate how we expect to consider applications under this provision. They are high level examples only and do not guarantee an application outcome as, when considering a case, UKVI caseworkers will look at the full facts available to assess whether the applicant falls within one of the 3 limbs of section 4L and consider each case on its own merits. (The case studies are based on an application date in 2022.)

## Example 1 – Child in care

Sara was born in the UK in 2002. Her parents were in the UK with limited leave at the time and so Sara did not become a British citizen automatically. From the age of 11 to 18 Sara was looked after by the local authority. Sara has learned that her parents were granted ILR before she was taken into care. As such, an application could have been made to register her under section 1(3) before her 18<sup>th</sup> birthday. The local authority has said that they had not realised that she would have qualified.

As Sara could have become a British citizen but for an act or omission of a public authority, it may be appropriate to register her under section 4L. However, she should also consider whether she already has an entitlement under section 1(4) and which is not dependent on being a minor.

## Example 2 – Kidnapped as a child

Tom came to live in the UK aged 3 in 2005. His mother was here on a work route and Tom was given leave to remain in line. When he was 8, his parents split up, and Tom was kidnapped by his father and taken overseas. Despite the efforts of the police and FCDO, Tom was not able to return to the UK until after the age of 18. In the meantime, his mother was granted ILR in 2012 and then naturalised as a British citizen in 2013.

Tom would have been in the UK but for the exceptional circumstances of having been kidnapped (as opposed to family decisions to live elsewhere). If he had been in the UK, he could have applied for registration under section 3(1). It may therefore be appropriate to register under section 4L. However, before applying, he should first consider whether he has a route to citizenship through naturalisation.

### Example 3 – Mother in civil partnership

Alfie was born in the USA in 2003. At the time his birth mother was a US citizen and her female civil partner a British citizen. From 6 April 2009, a mother's female partner is treated as the parent of the child for nationality purposes, and British women in civil partnerships can pass on nationality. Alfie claims his parents intended to apply to register him as a British citizen under section 3(1), but one of them had been seriously ill and so they did not get round to it before his 18<sup>th</sup> birthday. He has never lived in the UK.

Alfie could have applied for registration before his 18<sup>th</sup> birthday and would have met the criteria set out in guidance for when registration under section 3(1) would normally be appropriate (see the [guidance on registering children of civil partners](#)). As the law treated children of civil partners differently than those of married partners before 2009, it may be appropriate to register on the basis of historical legislative unfairness.

### Example 4 – Absences beyond applicant's control

Nadiya came to the UK in 2010 with a work visa. It has been established that she was a victim of modern slavery, working for a family who took her with them when they moved to the UAE in 2016. Nadiya has been back in the UK since 2019 and has been granted ILR exceptionally. Because of her absences, she will not qualify for naturalisation until 2024.

Had Nadia not been removed from the UK whilst enslaved, she may have been able to apply for naturalisation from 2015, and had she been able to meet all of the requirements. Before considering registration under section 4L, she should consider whether she could now qualify for naturalisation, taking into account the changes made by the Nationality and Borders Act 2022 which allow an exercise of discretion over the requirement to have been in the UK at the start of the qualifying period in special circumstances. If she has a route to naturalisation, registration under section 4L would not normally be appropriate.

### Example 5 – Passport issued in error

Hannah was born in the UK in 1979. She has been issued with British passports since the age of 4. When she applied to renew her passport earlier this year, she presented her full birth certificate, and it was realised that her parents had been employed as diplomatic staff at the Australian High Commission at the time. This means that Hannah did not become a CUKC and so has never been a British citizen. Both parents left the High Commission employment when Hannah was 10 and the family have been living/working in the UK since.

Hannah's parents might have applied to register her as a British citizen whilst she was a child, had she not been issued British passports in error. However, as she was resident in the UK for the first 10 years of her life, she will still have an entitlement to [registration under section 1\(4\)](#) of the British Nationality Act 1981. She should consider that route and not section 4L.

## Example 6 – Earlier application refused

Ravi applied to come to the UK on a work visa in 2016 but his application was refused as the salary his prospective employer was offering was not sufficient. He then applied again in 2018 and was granted. He entered the UK in September 2018. He claims that if his earlier application had been granted, he would now be able to apply for naturalisation.

Ravi does not meet one of the three limbs for section 4L: he was not prevented from becoming a British citizen by historical legislative unfairness, or an act or omission of a public authority, and his particular circumstances are not exceptional.

## Example 7 – Born after 1 January 1983

Aisha was born on 2 January 1983 in the UK. Her parents were not settled in the UK at the time, and so she is not a British citizen. She claims that had she been born on her due date of 28 December 1982 she would have been a British citizen automatically, as a person born in the UK before 1 January 1983 became a British citizen irrespective of their parents' status (unless a diplomat or enemy alien).

Aisha does not meet any of the three limbs for section 4L. The change in legislation was not historical legislative unfairness: it applied to all those born after the British Nationality Act 1981 came into force. Her particular circumstances are not exceptional as many people were born on or after 1 January 1983. There are registration routes for those born in the UK after that date: Aisha may be able to apply under [section 1\(4\)](#).

## Example 8 – Working overseas

Charles would have met the requirements for naturalisation in 2015 – he had been in the UK for over 5 years and had indefinite leave to remain for more than 12 months and had met the knowledge of language and life in the UK requirement for ILR. However, he lost his job and could not afford to apply. He found another job with an international company and has been posted to France for the last 5 years. He therefore does not meet the requirements for naturalisation. He claims that, but for the fact that he had lost his job and had to work overseas, he would have been able to naturalise in 2015.



Charles does not meet any of the three limbs for section 4L: his working overseas would not be recognised as exceptional circumstances for section 4L.

## Example 9 – Pandemic absences

Duncan would have been able to meet the requirements for naturalisation in 2020 – he had been living in the UK for over 5 years and had indefinite leave to remain for more than 12 months and had met the knowledge of language and life in the UK requirement for ILR. However, he had gone to visit family in Australia and was stranded there during the pandemic. Having returned to the UK, he wants to apply under section 4L on the basis that he could have become a British citizen but for exceptional circumstances.

Duncan can still make an application for naturalisation. Excess absences as a result of the pandemic will be taken into consideration – see the [naturalisation guidance](#). As such, his absence overseas is unlikely to be recognised as exceptional circumstances for registration under section 4L.

## Example 10 – Grandmother born in the UK – cannot assume the family would have moved to the UK

Rachel's grandmother was born in the UK in 1945. Her mother was born in the USA in 1965 and registered as a British citizen under section 4C in 2015, on the basis that she had a UK born mother. Rachel was born in Canada in 1996. Rachel claims that, had the law been different, her mother would have become a British citizen automatically and could have come to the UK when Rachel was a child, allowing Rachel to register as a British citizen under section 3(5) of the British Nationality Act 1981.

Although historical legislative unfairness meant that Rachel's mother did not become a British citizen automatically, it did not directly prevent Rachel from becoming one. Citizenship could not normally be passed on for more than one generation born abroad, and Rachel would not have been able to become a citizen had women previously been able to pass on citizenship. Whilst she maintains that her mother might have come to the UK had she been a citizen, that relies on hypothetical assumptions. She may be able to apply for a UK Ancestry visa to come to the UK.

## Example 11 – Lost CUKC on independence

Clive was born in Guyana in 1955. Both his parents and all his grandparents were born in Guyana. Clive's family moved to the UK in 1965, where they lived for five years. In 1966 Guyana became an independent Commonwealth country, and Clive became a citizen of Guyana. As neither Clive nor his father or grandfather was born, naturalised or registered

as a citizen in a country that remained part of the UK and Colonies at that time, or a protectorate or protected state, Clive lost his citizenship of the UK and Colonies (CUKC).

The fact that Clive ceased to be a CUKC was as a result of the independence arrangements of Guyana. It was not historical legislative unfairness: it applied to all those connected to that territory irrespective of any protected characteristics and was in line with independence arrangements of other countries. The fact that Clive's family did not apply to register him as a citizen would not normally be considered exceptional circumstances. Some Commonwealth citizens who are members of the Windrush generation are able to apply under the Windrush Scheme.

## **Example 12 – Adoption completed after child turns 18**

Sam's foster mother applied to adopt him when he was aged 16, after he had lived with the family since he was aged 10. The adoption proceedings were not completed until after Sam's 18<sup>th</sup> birthday. If the adoption had been finalised before he was 18, Sam would have become a British citizen automatically under s.1(5). As he was over 18, he did not become a British citizen. Sam may therefore be able to be registered on the basis of his exceptional circumstances.

## **Example 13 – Grandmother born in the UK – possible route to citizenship through section 5(1)(b) of the 1948 Act**

Dwight was born in the USA in 1972. His maternal grandmother was born in the UK in 1925. Dwight's father was born in the USA in 1950. Dwight's father was not a citizen of the UK and Colonies by descent, because women could not pass on citizenship at that time. He has since registered as a British citizen under section 4C (in 2010). If women had been able to pass on citizenship at the time, Dwight's father would have become a CUKC by descent and could have registered Dwight's birth at a UK consulate within a year of the birth.

If Dwight can establish that he would have had a claim having been born in a foreign (and not Commonwealth) country, had women been able to pass on citizenship in the same way as men, registration under section 4L might be appropriate.

## **Example 14 – Man married to CUKC woman**

George was born in the USA in 1952. In 1975 he married Eleanor, who was a CUKC, because her father had been born in the UK. George claims that if the law had treated men and women equally, he would have been able to register as a CUKC under section

6(2) of the British Nationality Act 1948 – in the same way as a foreign woman married to a CUKC man.

The fact that women could acquire British nationality simply through marriage was reflective of society at that time, and that certain rights and entitlements derived from a woman's marriage to her husband. (And women previously lost British subject status based on a husband's nationality). Section 4L predominantly seeks to address previous unfairness where women or their children missed out on citizenship. However, the intention in addressing inequalities in such circumstances is to "level-up" so that a woman has the same rights as a man. Section 6(2) of the 1948 Act reflected the (then) assumption that a woman's status should follow that of her husband, which in turn, reflected the wider underlying policy that citizenship could only be acquired via the male line. We do not think it appropriate to replicate that position for men.

Unless there are exceptional circumstances, it would not normally be considered appropriate to register George under section 4L.

### **Example 15 – Section 9 of the British Nationality Act 1981**

Hanif was born in Belgium in 1985. His mother was a British citizen by descent. Section 9 of the British Nationality Act 1981 was a transitional provision that lasted for 5 years after the Act came into force on 1 January 1983. It continued the acquisition of citizenship by descent to a second generation, where a child's birth was registered at a British consulate in a foreign country. A man who was a British citizen by descent could register his child's birth at a consulate within 12 months of the birth, and the child would become a British citizen.

If women had been able to pass on citizenship equally with men, Hanif could have become a British citizen through consular registration. Registration under section 4L might therefore be reasonable.

### **Example 16 – Renounced citizenship of the UK and Colonies**

Grace was born in Kenya Colony in 1955 and so was a citizen of the UK and Colonies by birth. Her mother was born in the UK. Grace did not become Kenyan on independence, as she did not have a parent or grandparent born there. However, she acquired Kenyan citizenship by registration and renounced her citizenship of the UK and Colonies in 1980. Section 10 of the British Nationality Act 1981 allows a person to resume British citizenship where they acquired that status through a qualifying connection to the UK, including having a father born there. Grace claims that she should be able to benefit under section 10, on the basis of her UK born mother.

The legal requirement for section 4L is about someone who would have been or been able to become a citizen. Grace was already a CUKC but renounced that status. She did not miss out on becoming a citizen because she had a UK born mother rather than a UK born father. Instead, she acquired citizenship in her own right, but actively chose to renounce it. Section 10(1) reflects the historical reality that citizenship could only be acquired by descent through the paternal line and that it is such a claim, previously renounced, which a person is able to resume. We would not therefore expect to register Grace under section 4L. She may, however, be able to apply for a UK Ancestry visa.

### **Example 17 – Did not register under section 3(2)**

Aiko was born in Japan in 1988. Her father was a British citizen by descent: his father was born in the UK. Aiko's parents did not make an application for registration under section 3(2) within 12 months of her birth. (The 12-month time limit was removed in 2010, allowing an application to be made at any time before a person's 18<sup>th</sup> birthday,) Aiko claims that if the law had changed earlier, her parents could have applied to register her while she was under the age of 18.

If there were exceptional reasons, there was discretion to register a child up until the age of 6 under section 3(2), or an application could be made up to the age of 18 under section 3(1). We do not normally expect to use section 4L where people were simply born before or after a change in the law. Section 3(2) applied equally to all children born at the same time point, and so this would not be considered to be historical legislative unfairness.

### **Example 18 – Grandmother born in the UK – child born before 1949**

Ingrid was born in Sweden in 1939. Her mother was also born in Sweden, and her maternal grandfather was born in the UK. If women had been able to pass on citizenship in the same way as men, Ingrid claims her mother would have registered her birth at the British consulate, allowing Ingrid to become a British subject.

If women had been able to pass on nationality in the same way as men, Ingrid could have become a British subject through consular registration. Ingrid could be registered under section 4L if such consular registration would have meant that she went on to become a British citizen.

## **Example 19 – Grandmother born in the UK – potential 3(2) claim**

Alan was born in South Africa in 1984. Alan's maternal grandmother was born in the UK and his mother was born in South Africa. Alan's mother lived in the UK for 3 years while she was a student from 1979 to 1982. Alan's mother registered as a British citizen under section 4C in 2004. Alan claims that if his mother had been able to register as a British citizen before he was 18, he would have been able to register as a British citizen under section 3(1) of the British Nationality Act 1981.

Our guidance on section 3(1) states that we would normally register where the child was born before the parent registered under section 4C and, had the parent been able to become a British citizen automatically, the child would be a British citizen or have an entitlement to be registered under section 3(2) or 3(5). The caseworker will consider the circumstances of Alan's case. If they are satisfied that Alan missed out on becoming a British citizen because of gender discrimination, registration under 4L might be appropriate. However, they would need to be satisfied that there would have been a definite section 3(2) entitlement, based on actual events, rather than relying on speculation that the mother might have come to the UK if she was a British citizen.

## **Example 20 – Woman married to a man with a British mother**

Margaret, a Canadian national, married her Canadian husband Hank in 1965. Hank's mother was born in the UK in 1920. Margaret claims that if women had been able to pass on citizenship before 1983, Hank would have been a citizen of the UK and Colonies and she could have applied for registration under section 6(2) of the British Nationality Act 1948.

We cannot be certain in this case that Margaret would have become a citizen, as it would have been conditional on her choosing to make an application (with the possibility of losing another nationality that she might have held). The caseworker will consider the specific circumstances of the case.

## **Example 21 – Birth not registered at a consulate**

Kurt was born in the USA in 1967. His paternal grandfather was born in the UK and his father was a CUKC by descent. Kurt's birth father did not register Kurt's birth at the British consulate within 12 months of the birth, and so Kurt did not become a CUKC under section 5(1)(b) of the British Nationality Act 1981. Kurt has referred to the changes made in the Nationality and Borders Act which allow us to overlook the fact that a person's birth was

not registered at a British consulate when considering an application under sections 4C and 4I. He suggests that he should also be able to benefit on that basis.

The fact that a person with a British “by descent” mother, or unmarried British father, could not have their birth registered at a British consulate amounted to historical legislative unfairness. This was in contrast to a child with a British father, who did have that opportunity but was not registered. In applying section 4L we would want to register those who did not have an opportunity to become British because of historical legislative unfairness, but not those whose parents had that opportunity but did not take it. Kurt did not miss out on British citizenship because of historical legislative unfairness, but because his parent failed to act. As such, Kurt does not meet the requirements for registration under section 4L.

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