



Home Office

# Balance of probabilities

Version 14.0

Guidance for His Majesty's Passport Office staff dealing with passport applications using a balance of probabilities

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# About: Balance of probabilities

This guidance tells His Majesty's Passport Office's operational staff:

- what a balance of probabilities is
- who deals with applications using a balance of probabilities
- when to deal with applications using a balance of probabilities
- how to deal with applications using a balance of probabilities

## 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 **14.0**
- published for Home Office staff on **12 December 2023**

## Changes from last version of this guidance

This guidance has been updated to make minor formatting changes.

### Related contents

[Contents](#)

# How to make decisions using a balance of probabilities

This section tells His Majesty's Passport Office staff what we mean by making decisions using a balance of probabilities and when we will consider making these decisions.

Some customers may not be able to provide the standard documents we need to deal with their application. Examiners will ask the customer for other evidence (in line with the supporting documents not available guidance).

Examiners must refer the application to an operational team leader (OTL) to ask them to decide, using a balance of probabilities, if the customer has a claim to British nationality.

## What a balance of probability decision is

A balance of probability decision is one based on the evidence provided. A positive decision for the customer would mean we were more satisfied than not, that their information and documents show the event occurred (for example, their birth or the marriage of their parents).

OTLs will consider using a balance of probabilities to decide an application, if:

- the customer's documents are unavailable (for example, they cannot provide them, or they are in a country in crisis)
- the documents do not exist (for example, if a birth was not registered due to personal choice or refusal to follow legal requirements)
- we must verify or validate the documents but cannot
- the documents do not satisfactorily confirm the customer's nationality or identity

When OTLs make a decision using a balance of probabilities, they must:

- consider:
  - a customer's supporting documents (including if the customer has provided all mandatory documents or other evidence)
  - what information they can [confirm from other sources](#)
  - [other things that may help with their decision making](#)
  - other documents, where the customer does not have alternative evidence, for example Philippines cenomar or South African vault birth certificate
  - discuss the application with the Quality, Examination Support team (QuESt) if they need advice or support
- decide if they are more satisfied than not:

- that a customer is who they claim to be, and the person named (or described) in the documents
- that the claimed events more than likely happened
- with the customer's identity and nationality

We will not issue a passport, if:

- we are not satisfied with the customer's nationality or identity
- there are other reasons not to issue the customer a passport (for example, safeguarding, vulnerability, entitlement, or fraud concerns)

## **Related contents**

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# Balance of probability: considering the customer's evidence

This section tells His Majesty's Passport Office operational team leaders how to check a customer's documents when using a balance of probabilities.

You, the operational team leader (OTL), must check the customer's documents and evidence. You must:

- ask customers to provide original documents from the issuing authority
- and check the documents link the customer (or intended passport holder) to the event
- consider what other evidence you can ask a customer for, to confirm the event took place (if they cannot send us original documents or the evidence is less reliable)
- ask the customer for more evidence to confirm their nationality, identity and entitlement (if you need to)
- check the documents, evidence and information the customer sends us to make sure they are valid, genuine and you have no fraud concerns

When you need to decide using a balance of probabilities, there is less of a risk, if all the following apply:

- the customer provides other evidence
- the evidence is reliable
- you have no fraud concerns with the application

## Considerations for balance of probability decisions

When checking a customer's nationality claim, you must:

- decide if they have a claim to British nationality, using HM Passport Office and Home Office nationality guidance
- confirm the identity of the person the claim is through and the link between them and the customer (if it is an automatic claim by descent)
- check you have enough evidence to confirm an event took place (for example, a marriage or settlement)

Genuine documents issued at the time of an event (or as close to it as possible) are known as contemporaneous documents. They are more reliable as evidence than a document issued much later. For example, a certificate showing a birth was registered several years after it took place is less reliable than a birth certificate issued at the time of the birth.

If the customer sends in a recently issued document with other documents or evidence that appear to be the right age but cannot be confirmed as being issued at

the time (or after the event), you can consider this evidence as a whole to support the application.

When you check an application with the intention of making a balance of probability decision, you must:

- be aware, that:
  - contemporaneous documents are usually reliable evidence that the event took place
  - some documents are usually more reliable as evidence than others, for example, those with more security features, such as watermarks, which are more difficult to forge or counterfeit
- consider:
  - the customer's supporting documents and other evidence, including reasons why they could not provide them
  - the outcome of other searches and checks you carried out (in line with this guidance)
  - if there are other documents or evidence the customer can provide
  - if there are other searches or checks you can carry out
  - discuss the application with the Quality, Examination Support team (QuEST) if you need advice or support
- consider, if you have concerns about a customer's identity:
  - asking for a referee
  - sending a text 200 to a referee
  - arranging a standard identity interview
- decide if you are more satisfied than not:
  - if the person is who they claim to be, and they are the ones named (or described) in the documents
  - if the claimed events are more than likely to have happened
  - with the customer's identity and nationality
- check if there are any reasons not to issue them a passport, for example, safeguarding (child protection), vulnerability, entitlement or fraud concerns

## If you are satisfied using a balance of probabilities

Even if you confirm the customer's nationality and identity, you must decide if there is anything else that may stop you from issuing them a passport.

If you are more satisfied than not with a customer's passport application, you must:

1. Add a case note to show the actions and decisions you made, including your reasons.
2. Refer the application back to the examiner dealing with the application who will consider your decision and issue the passport.

## If you are not satisfied using a balance of probabilities

If a customer does not have a claim to British nationality, you must consider the impact on them. For example, if they:

- have a claim to another nationality
- will be stateless
- need to register or naturalise for British citizenship with UK Visas and Immigration (see: [Withdrawing passports and passport facilities guidance](#))

If a customer cannot provide enough evidence to make you more satisfied than not of their passport application, you must:

1. Add a case note to show the actions and decisions you made, including your reasons.
2. Refer the application back to the examiner dealing with the application who will consider your decision and refuse the application.

## If you are not satisfied: emergencies or countries in crisis

If a customer is in a country in crisis, you must refer to the Crisis situations: [supporting our customers](#).

## If you are not satisfied: concerns about a customer's identity

If you have concerns about a customer's identity, you must:

- ask for more identity documents (for example, passports or travel documents)
- refer the case to Enhanced Application Checking (EAC) (if you are processing on AMS), or complete additional checks (if you are processing on DAP, if you cannot confirm the customer's identity from the extra documents, they sent)

## If you have fraud, safeguarding or vulnerability concerns

If you have fraud concerns, you must refer the application the Counter Fraud team. The Counter Fraud team may consider an interview under caution.

If you have vulnerability concerns, see [Vulnerability considerations for passports](#).

If you have safeguarding concerns, see [Safeguarding consent issues](#).

### Related contents

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# Balance of probabilities: checking and accepting alternative evidence

This section tells HM Passport Office operational team leaders how to check customer's alternative evidence when they make a balance of probability decision.

You, the operational team leader, must check the alternative documents and information the customer sends link to the customer, is genuine and helps confirm the event took place.

However, you must not search for information to create links to the customer that are not directly supported by their evidence. For example, if the customer tells you they have changed their name but there is no document to support this, you must not search for records in that name.

## Balance of probability: checking documents link to customer

You must check the details on the documents link the customer (or their parents) to the application.

You can consider scans and photocopies of supporting documents as supporting evidence. These may include, for example, a supporting letter. However, you must not accept scans or photocopies of core documents, such as birth certificates on their own. If the customer sends a scan or copy of a core document, it must be supported by other contemporaneous original documents that can be verified.

You must check the date of issue on a customer's documents, as it may be an indication of how reliable they are, as contemporaneous documents are more reliable evidence.

## When there is no birth certificate

Some countries have different timeframes when registering a birth.

If a customer has lost their original birth certificate, they may not always be able to get a replacement. However, they may be able to send a copy of the hospital birth record or an extract from the authority registration record to support their application.

You, the OTL must consider:

- if a customer can give us other official documents (or records) close to the time of birth (for example, passports, medical records or travel documents)
- how reliable the other evidence is to prove the birth happened at the time a customer claims it happened

- what other facts you need to confirm other than that the event took place (for example, birth certificates can show legal parentage, the name of the child and the claim to nationality)

## Checking the validity of a marriage

If you need to check the validity of a marriage but a customer cannot provide their marriage certificate, you must consider, if:

- there are other official records or documents that show a link to the marriage (for example, a change of name deed or a divorce document)
- the marriage is valid in the UK
- there are documents to show the mother was married to someone else at the time of birth

## Missing naturalisation or registration certificate

If a customer cannot provide their registration or naturalisation certificate, you must consider, if:

- you can confirm their citizenship by:
  - checking UK Visas and Immigration (UKVI) or National Archives information
  - checking Case Information Database (CID) or Person Centric View (PCV)
  - requesting a Home Office file
- there's official passport or Foreign, Commonwealth & Development Office (FCDO) records that can confirm the customer's citizenship

## If a customer's name is different on their documents

If a customer's documents show a different name, you must:

- confirm how they changed their name
- be able to link all the names they have used
- make sure the documents show a clear link between the names they claim to have used

## If the parent's surname is different to their child's name

You must check if you can link a parent to their child if the documents show differences in their surname (family) names.

You may have to ask the customer to send extra evidence (for example, change of name deed, marriage certificates or divorce documents) to show the link between the names they used.

## Checking evidence with an issuing authority

As original documents may not always be genuine and genuine documents may not always be reliable, you must check they came from a reliable source.

To help you decide if a document is genuine, you can use:

- Knowledge Base (which has examples of documents that may not be reliable for use as evidence)
- counter fraud guidance
- counter fraud bulletins
- the Counter Fraud SharePoint and DISC (Document Information System Civil Status) sites

## Documents from foreign embassies

When checking if documents are authentic, you must be aware that the following may issue documents:

- issuing authorities
- official bodies
- unofficial sources

When accepting documents from foreign embassies, you must be aware:

- we do not consider a foreign embassy an issuing authority
- some foreign embassies confirm documents when an issuing authority has not been able to - we may not always accept this
- a foreign embassy may be able to confirm if a document is genuine, but they cannot confirm an event took place

Therefore, you must not accept a document amended by a foreign embassy or authority to support a change (or confirm an event took place) on its own. You must ask the customer for more evidence.

## Balance of probability: information from other sources

As well as using the documents and information the customer (or third party) sends, you must consider if you can confirm the information using the systems available to you. See Searches and checks – passport application records.

However, there may be exceptional circumstances where you may be able to search Home Office systems to verify information. This is to support vulnerable customers who cannot give us the documents (or alternative documents) that we need.

## Checking information: using Home Office records

HM Passport Office can apply an exemption to the General Data Protection Regulation 2018 under 'Special category data', article 9G for vulnerable customers when:

- it is in the best interest of the customer
- HM Passport Office need the information to determine a customer's nationality status (under British nationality law)

This means we can search Home Office records to verify information to support a vulnerable customer (for example, we can access parents' or grandparents' records).

You, the operational team leader (OTL), may be asked to make a balance of probability decision using documents or information the customer (or third party) supplies.

To help make these decisions, you:

- must use a combination of documents, information the customer (or third party) gave you and Main Index (MI) or UKVI records to make your decision
- cannot use a wildcard or open search on its own, as this could mean you:
  - access a record that is not connected to the application
  - provide a claim for someone who is not entitled
- must have documents or information that links the record to the customer in some way, for example:
  - birth certificates
  - information from local authorities
  - statutory declarations that were made by living relatives
- must carefully consider if the customer's documents and information relate to the same person in the record

Before you check Home Office systems, you must:

1. Decide if:
  - it is in the best interest of the customer for you to search Home Office records to verify information
  - you can search Home Office records to verify the documents or information
2. Add a case note to:
  - record the documents and information you have
  - explain why you should check Home Office records to verify the documents or information
3. Add the case note:

'[insert name of system] search completed on [insert relationship to customer] using [insert wildcard] wildcard. Record found [insert record details].'

You must not case note any protected characteristics you find in the Home Office record for example, if the parent has changed their gender.

## Comparing Home Office records and customer documents or information

When you use a Home Office record to support a balance of probability decision you must consider if the documents or information provided by the customer matches with the Home Office records.

For example, you must check if the record on Main Index or UKVI (for example, for the customer's parents) matches the details in the documents or information the customer has supplied. You must check details such as:

- the place of birth
- the date of birth
- the name, including any previous names or aliases on UKVI systems

If you cannot find a record for the customer on Home Office systems, you must not refuse the application. Instead, you must send a guidance query to the Quality, Examination Support team (QuEST), who will:

- check with policy colleagues to see if there is anything we can do to support the customer
- respond and tell you what to do

You must follow the guidance in the response from QuEST.

## Checking information: other government departments

Other government departments (for example, the Foreign, Commonwealth & Development Office) may be able to provide information to support an application.

The National Archives has information, especially relating to nationality and registration certificates. You must ask QuEST to check the National Archives.

You can ask the customer to complete a Subject Access Request (SAR) to get information that another government department holds about them.

### **Related contents**

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