

# CHILDREN AND THEIR RIGHTS TO BRITISH CITIZENSHIP



**Information for parents and carers and children**

PRCBC, November 2017

**Please note:** The information set out here does not cover all the circumstances in which a child may become a British citizen.

Some cases may be complex and need detailed evidence. This may include expert evidence. It is therefore very important to get advice from a specialist qualified adviser.

An explanation of some of the legal words used in this leaflet is given in the glossary at the end.

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# Is your child a British Citizen?

## Children born in the UK



**YES**

If your child was born in the UK and at the time of the birth either of her/his parents were:

- British citizens themselves or
- Settled in the UK (that means had *indefinite leave to enter or remain* or, if they were EEA citizens, had *permanent residence*)

then your child was automatically born a British citizen, and you can apply to the British Passport Office for a British passport for him or her. You will need the child's full birth certificate and the proof of the parent(s)' British citizenship or settled status at the time of the birth.

The current child passport application fee is £46.



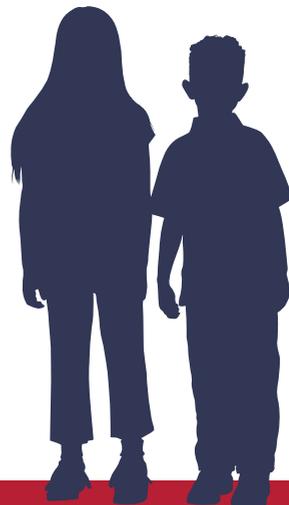
**NO**

If your child was born in the UK but at the time of the birth neither of his parents were British or settled, then s/he was not born British.



**BUT**

There are ways in which your child can register to become British.



# ***How children may be able to become British***

## **Scenario One**

- s/he would have the **right** to become British if either of her/his parents become settled, or become British citizens, while s/he is still a child, under 18.
- If the child is aged 10 or over, the Home Office also has to be satisfied that child is of good character.

The registration application can be made on the **Home Office Form MN1**, filling in the relevant parts (it's a bit of an all-purpose form). This form should be sent to the Home Office with proof the parent has been granted settled status or British citizenship, after the child was born. The current Home Office registration application fee is £973.

## **Scenario Two**

- S/he would have the **right** to become British if s/he was born in the UK and lives here for the first 10 years of her/his life, with no gaps of more than 90 days (three months) in any year. (If there are longer gaps, there may still be a right to become British depending on the circumstances.) This application can be made at any time after the child is 10, even after s/he has become an adult.
- If the child is 10 or over, the Home Office also has to be satisfied that child is of good character.

The registration application can be made on the **Home Office Form T** to be sent with proof of the child being in the UK through the first 10 years of her/his life.

The current registration application fee is £973 for children and £1,163 for adults.

## **Scenario Three**

S/he would have the **right** to become British if s/he has always been stateless and has lived in the UK for the last five years, not being out of the country for more than 450 days, and is under 22 years old at the date of the application. (If there are longer gaps, there may still be a right to become British depending on the circumstances.)

The registration application can be made on **Home Office Form S3** to be sent with proof that the child is and always has been stateless and has lived in the UK for over five years.

The current registration fee is £973 for children and £1,163 for adults.

**'Statelessness'** does not mean not having a passport. It means that no country accepts the child as a citizen. Parents or carers would need proof from the country/countries of their own citizenships that their child did not have that citizenship.

# Is your child a British Citizen?

## Children not born in the UK



**YES**

If your child was not born in the UK but either parent was a British citizen either through birth in the UK, or through being registered or naturalised as a British citizen in the UK, before the child was born, your child was automatically born a British citizen (i.e. 'by descent')

The child can apply to the British Passport Office for a British passport. The child's full birth certificate and the proof of the parent(s)' status at the time of the birth, such as the parent's original full birth certificate or original naturalisation or registration certificate will be needed. The child passport application fee is £46.

If the parents were not married to each other, further evidence of the child's parentage may be needed; get specialist legal advice before applying.

If your child was born in the UK but at the time of the birth neither of his parents were British or settled, then s/he was not born British.



**NO**

If your child was not born in the UK, and neither parent was British at the time of birth, the Home Office has the **discretion** to register children to become British.

The Home Office will usually register a child if:

- the child and both parents live in the UK, have indefinite leave to enter or remain, or EEA permanent residence
- **and** at least one of the parents is also applying to become British, or is already British
- **and** the other parent is unlikely to be required to leave the UK
- **and** they are satisfied that the child's future lies in the UK
- **and** (if 10 years old or over) the child is of good character.

The registration application can be made on **Home Office Form MN1**, and the current fee is £973.



## **BUT**

Because the Home Office has a wide discretion to register any child to become a British citizen, it is possible to apply when you don't meet all the Home Office published guidance.

For example:

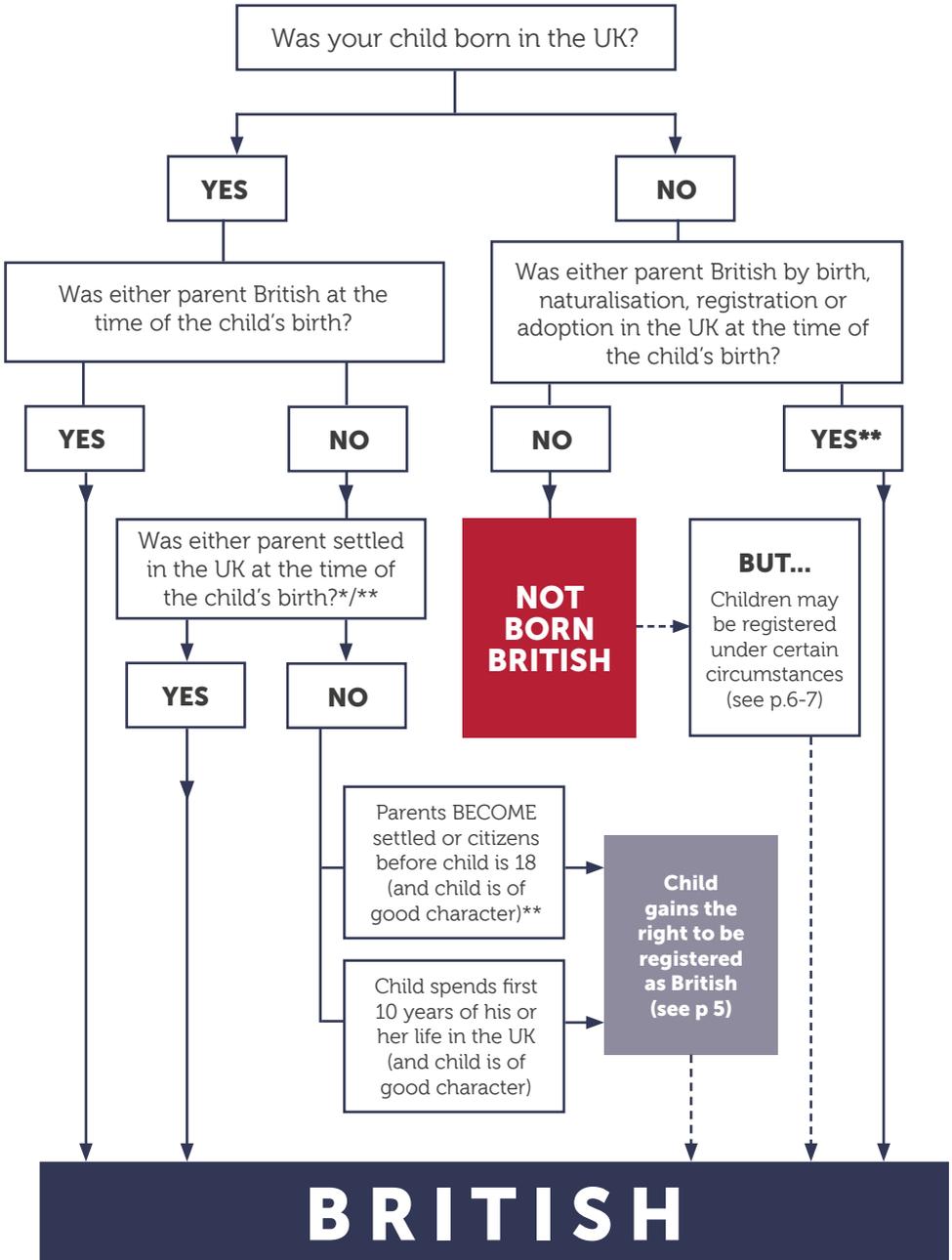
- children with lengthy residence in the UK and who arrived at a young age, even if they don't yet have indefinite leave to remain; and
- where it can be demonstrated that the child's future clearly lies in the UK; and
- that it would be in the child's best interests to be registered as British; and
- the child is of good character.



**the Home Office  
has a wide  
discretion to  
register any child  
to become a  
British citizen**



# Is your child British?



\* Indefinite leave to remain or EEA citizens with permanent residence

\*\*But if parents are not married, additional evidence may be required

## General points

If the child's parents are not married, certain types of documentary evidence will be required to prove the **father** is the child's father. This will be necessary when it is the father who is the British citizen or settled person, but not when it is the mother.

The UK permits **dual nationality**; people becoming British do not lose their other nationality under UK law. But some countries don't allow this and becoming British could mean that the child loses his/her original nationality. You should always check this with the Embassy or High Commission of the country of the child's original nationality to find out. The Home Office will not tell you.

All **application fees** are non-refundable; they will not be returned if the application is refused.

Home Office application fees may increase at short notice.

The Home Office must by law consider the **best interests** of the child when deciding on a citizenship application.

There is the right to ask for a **Home Office internal review** of a refused application – with another non-refundable fee of £321. If that is also refused, it may sometimes be possible to apply to the courts for a **judicial review** of the refusal.

There is **no legal aid** for legal advice and assistance in applying for citizenship, or in asking for a review of a refusal. However, in some cases it may be possible to apply for exceptional case funding (ECF) to the Legal Aid Agency (LAA). Legal aid may be available for a judicial review, depending on the child's financial means and the strength of the case.

Some Citizens Advice Bureaux and Law Centres may be able to help or may know of other local sources of **legal advice**.

# Glossary

**Child** – for the purposes of nationality law this means a person under the age of 18.

**Descent** – someone is a ‘British citizen by descent’ when born outside the UK to a parent who is a British citizen ‘otherwise than by descent’ – that is, became British through their own birth in the UK, or registration or naturalisation in the UK, before the child was born.

**European Economic Area (EEA)/European Union (EU)** – The EEA includes all EU countries and also Iceland, Liechtenstein and Norway. Switzerland is neither an EU nor EEA member but under EU law Swiss nationals have the same rights to live and work in the EU as other EEA nationals. The EU countries are: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and (for the moment) the UK.

**Good Character** – is not defined in the law; the Home Office will take account of any criminal convictions and any other adverse matters, but representations can be made to explain why such things should not stop the child being registered. This criterion applies to a child aged 10 or over.

**Immigration law** – determines which people can come to live in a particular country, and on what conditions, for example, to stay for a certain limited time, or not permitted to work, or to access welfare benefits.

**Indefinite leave to remain** – means the same as ‘settled status’ (see below).

**Judicial review** – is the procedure by which the high court can check the Home Office is acting within the law.

**Nationality law** – defines who is a citizen of a country and how someone might gain that citizenship. (In the UK this may be by birth, descent, registration, or naturalisation.)

**Naturalisation** – the process for most adults applying to become British citizens.

**Permanent residence** – applies to someone from an EEA country (or Switzerland) who has lived in the UK for a certain number of years, usually five, and fulfils certain conditions, such as working or being economically active for that period.

**Registration** – the process for children, and certain categories of adults, to become British citizens.

**Settled status** – means that a person has indefinite leave to enter or remain or, if s/he is an EEA citizen, has permanent residence. Note that prior to October 2000, some European citizens in the UK were treated as settled even though they did not have permanent residence.



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**Project for the Registration of Children as British Citizens  
(PRCBC)**

**c/o Migrants Resource Centre  
Derry House  
20 Penfold Street  
LONDON  
NW8 8HJ**

**Email: [prcbc2013@gmail.com](mailto:prcbc2013@gmail.com)**

**Website: [www.prcbc.wordpress.com](http://www.prcbc.wordpress.com)**

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