

The UK citizenship process - key facts and requirements

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These notes are intended as a reference guide to the most common categories of British citizenship, as well as issues and solutions that are commonly relevant to citizenship applications by nationals of [EEA membership states](#) or Switzerland.

Please note: before you consider applying to become British, you should find out whether your home country allows dual citizenship and in precisely which circumstances. Otherwise, by applying to become British, you might inadvertently lose your current citizenship now or later, and with that, your right to free movement in the EEA and Switzerland. You should consult your country's embassy or government website, i.e.: *official* sources of information about the laws of your country. Do not rely on printed information which may be out of date. Laws can change, sometimes for the better!

Legal advice and assistance with your application

After learning of all of the above, you may decide that you would prefer legal advice and assistance at this point. Here are some options:

- **Private fees** – you may only need an initial consultation if you feel you just have a few questions. Find solicitors [here](#) and OISC-accredited immigration advisers [here](#). Three of the highest-ranked private solicitor firms for immigration in the UK are [Laura Devine Immigration](#); [Bates Wells](#); [Wesley Gryk Solicitors](#)
- **Private fees (free 15-minute phone consultation)** – small organisation [Gribkowski Migration](#)
- **Legal aid (separated migrant children eg: children in care only)** – three examples of good legal aid firms and organisations are: [Bindmans](#); [Wilsons](#); [JCWI](#)
- **Charities (free advice and assistance for children and young people)** – [The Project for the Registration of Children as British Citizens \(PRCBC\)](#); [CCLC](#); [Just for Kids Law](#)

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The main citizenship categories under the British Nationality Act 1981 (“BNA”)

Any age – sections 1(1) and 1(4)	
S1(1) BNA- automatic citizenship	S1(4) BNA – registration <i>by entitlement</i>
<ul style="list-style-type: none"> • Born in UK • One parent was settled or British at time of birth (settled can mean being a permanent resident without having applied for a PR card) • No need to apply for citizenship - just apply for a British passport • Adult passport from age 16 £75.50 • Child passport £49 	<ul style="list-style-type: none"> • Born in UK • Spent first 10 years of life in UK • No more than 90 days’ absence in each of those years • Good character (from age 10) • Form T (Form T guidance here, Home Office staff guidance here) • Fee child: £1,012 • Fee adult: £1,206
Under 18 – sections 1(3) and 3(1)	
S1(3) BNA- registration <i>by entitlement</i>	S3(1) BNA – registration <i>by discretion</i>
<ul style="list-style-type: none"> • Born in UK • One parent becomes settled or British 	<ul style="list-style-type: none"> • Born outside UK • Show good reasons for registration • <i>Always take legal advice!!!</i>
<ul style="list-style-type: none"> • Good character (from age 10) • Form MN1 (Form MN1 guidance here, Home Office staff guidance here) fee £1,012 	
18 and over – sections 6(1) and 6(2)	
S6(1) BNA – naturalisation <i>by discretion</i>	S6(2) – naturalisation <i>by discretion</i>
<ul style="list-style-type: none"> • 5 years’ residence, max. 450 days’ absence • Settled for one year before applying 	<ul style="list-style-type: none"> • Spouse/civil partner of a British citizen • 3 years’ residence, max. 270 days’ absence • Can apply straight after settlement
<ul style="list-style-type: none"> • No more than 90 days’ absence in the last year • Good character (conduct from age 10) • Life in the UK Test (unless exempt) • English language (unless exempt) • Form AN (Form AN guidance here, Home Office staff guidance here), fee £1,330 	

Before you apply

- **Choice between application by entitlement or by discretion:** if you could just as easily meet the requirements for a category *by entitlement* as one *by discretion*, choose the application *by entitlement*. Although the good character requirement still applies, you will be on stronger ground.
- **Refusals:** if an application is refused, the application fee is not refunded and there is no right of appeal. The only way to challenge a refusal is by a Nationality Review on [Form NR](#), fee: £372.

Procedures common to all citizenship application categories

All citizenship applications require:

- 2 referees (see pages 9 and 24 of [this Home Office staff guidance](#))
- 2 passport photos for the referee declarations
- Biometrics appointment

Common practical issues - insufficient documents to prove residence

To fill gaps in your documentation, you may wish to make the following requests:

- [HMRC subject access request](#) (free of charge - employment history, NI contributions, tax credits, child benefit etc)
- [DWP subject access request](#) (free of charge – benefit records)
- Council tax: confirmation of dates of residence at your addresses (free of charge from local council)
- GP or dentist list of appointments (usually free, max fee £10); full medical records (max fee £50)
- School or college records – ask for a letter setting out start and finish of enrolment and full attendance record, if they have it
- Employment records – ask your current or former employer to put your start date, your annual leave entitlement and whether you have taken any leave in excess of that

Other issues: excess absences, form-filling, missing documents, criminal records

- **Absences *in fact* exceed the maximum** – your application can still succeed. Please read the paragraphs dealing with “absences” in the [guidance for naturalisation](#) (if you apply under section 6(1) or 6(2)), or the [guidance for registration](#) (if you apply in any of the other categories). These paragraphs contain specific rules on how many extra days’ absence can be allowed, and in what circumstances.
- **Questions about filling in the forms** – see table on p1 for links to guidance documents next to each form.
- **Missing documents** – UK birth and marriage certificates: request replacements [here](#); passports or other documents from your country: check your embassy or your country’s government pages.
- **Want to see your criminal record before UKVI do?** – make an ACRO subject access request [here](#). If you are unsure whether your criminal record could cause a problem, seek legal advice before applying. Please see the end of this document for some links of organisations you can contact.

The ‘good character’ requirement

Anyone applying for citizenship for themselves or someone aged 10 or over should read the [good character guidance](#). This is the guidance used by the Home Office to decide applications. If anything in this guidance seems to be relevant to the applicant – seek legal advice!

A short outline of the good character guidance is summarised as follows.

All **criminal offences**, including those which are [spent](#), must be disclosed. Applications will *normally* be refused for having:

- 4 year + prison sentences, whenever they finished.
- 1 year to under 4 years prison sentences unless the sentence finished 15 years ago.
- prison sentences shorter than 1 year unless the sentence finished 10 years ago.
- non-custodial or out of court sentences on criminal record, unless imposed more than 3 years ago.

Other grounds for refusal are if, in the last 10 years, the applicant fell foul of the following expectations:

- **Financial soundness** – by being bankrupt or involved in managing a company which was liquidated.
- **Honesty**
 - by admitting to, or being caught using, deception in a previous citizenship or immigration application, including by: cheating on English or Life in UK tests; being in or attempting to enter a sham marriage; or by referees making false statements

- by having previously held British citizenship revoked on grounds of deception
- **Compliance with immigration requirements** – the fact that EEA nationals without Comprehensive Sickness Insurance (CSI) or otherwise not exercising treaty rights can have their citizenship applications refused under the good character guidance is nothing new. The additional requirement to have complied with immigration requirements for the preceding 10 years was a controversial policy change on 11 December 2014, which was declared lawful in [Al-Enein](#) [2019] EWCA Civ 2024. The first version of that guidance, archived [here](#) read as follows (emphasis added):

“9.7 Evasion of immigration control

The decision maker will normally refuse an application if within the 10 years preceding the application the person has not been compliant with immigration requirements, **including but not limited to** having: a. failed to report b. failed to comply with any conditions imposed under the Immigration Acts c. been detected working in the UK without permission”

The fact this is intended to also apply to EEA nationals has merely been made more explicit, since then. There have always been lawfulness requirements on EEA and Swiss nationals’ residence in the UK, but they were not well known about, as the UK government did not require that EEA and Swiss nationals should apply to register, to prove those rights.

“Compliance with immigration requirements” for EEA/Swiss nationals

This section is relevant to British citizenship applications by EEA and Swiss nationals because of the good character requirement to show 10 years’ compliance with immigration requirements.

“Rights of residence” under the Immigration (EEA) Regulations 2016		
<i>These rights arise automatically on meeting the conditions. No UKVI application is needed to show they existed.</i>		
Initial-Reg 13	Extended – Reg 14.	Permanent – Reg 15
<p><u>First 3 months in UK</u></p> <p>The only conditions for this right are to hold a European passport or ID card and, while in the UK, not to become an unreasonable burden on the social welfare system.</p>	<p><u>After the first 3 months in UK</u></p> <p>The conditions are that you exercise treaty rights and thus become a qualified person. Exercise of treaty rights can be done in different ways: as an employed worker, as a self-employed person, a student or a self-sufficient person. To be a qualified person in the last two categories, you must hold comprehensive sickness insurance. It is also possible to exercise treaty rights as a jobseeker, but normally this is limited to 6 months. Temporary absences from work will not interrupt ‘worker’ or ‘self-employed’ status if certain conditions are fulfilled. Work only needs to average at least 10 hours per week, whether employed or self employed. It must not be ‘marginal and ancillary’, like a degree course placement. If work is not “marginal and ancillary” you can be classed as a worker instead of a student.</p>	<p><u>Automatic right as soon as 5 years’ continuous residence as a qualified person (or their family member) is completed– no application required!</u></p> <p>The conditions are that you or your EEA/Swiss national family member, has been a qualified person for 5 years with no absences of more than a total of 6 months in any one year. In some circumstances, an individual and their family will become eligible for permanent residence before 5 years are up, such as having to give up work because of injury or permanent incapacity.</p> <p>The PR right comes into existence automatically (no PR card required!) and is lost after 2 years’ continuous absence from the UK.</p>
Rights of residence for family members under the same Regulations		
<p>Direct family members are children (including grandchildren and great grandchildren) under 21 years of age (or 21 and over, if dependent), spouses and civil partners, and dependent relatives in the ascending line (parents, grandparents, great grandparents). Direct family members automatically have the same rights as the qualified person, for so long as the qualified person exercises treaty rights. Once the qualified person reaches PR status, so does their family member if they have lived in the UK for a continuous 5 years and had been the QP’s family member for that period.</p> <p>Non-European family members completely depend on their European national family members’ exercise of treaty rights to get to PR. European national family members can take turns in exercising treaty rights and depending on each other, to reach the 5-year mark. Spouses and civil partners keep their rights for so long as they and their partner are in the UK, even if they no longer live together. If they get divorced, or if the EU national dies or leaves the UK, they can retain their rights if they fulfil certain conditions.</p> <p>Extended family members: unmarried or ‘durable’ partners and other ‘extended family members’ only have those rights once they have been issued with a residence document.</p>		

Other ways of proving that you were insured for health costs

- Transitional arrangements mean that a pre-20 June 2011 registration certificate held as a student means the holder is exempt from the CSI requirement thereafter.
- Young people may be covered by a parent's insurance, or spouses may be covered by a partner's cover.
- The [guidance on qualified persons](#) currently contradicts itself in stating that an EHIC card (note that this must be an EHIC card from another EU country, not a British EHIC card) can only be accepted as CSI "if the applicant is living in the UK on a temporary basis" but then goes on to accept that an EHIC may be used to prove CSI for the whole 5-year period if applying for permanent residence. Regardless, it would be perfectly sensible to use an EHIC card to cover a certain period, and evidencing that the intention was temporary at the time (strong ties to home country etc). Note also that some countries have the equivalent of an EHIC certificate printed on the back of the national ID card.
- The same section of the [qualified persons guidance](#) also sets out (summarised on page 41) other types of certificates which can be obtained from your home state to prove CSI, namely certificates S1, S2 and S3. These can prove that the NHS would have been reimbursed by your home state for health costs.
- The CSI requirement for family members of students only entered the EEA Regs 2016 from 6 April 2015, though was enforced only from 22 June 2015.

What to do if there are gaps in your 10 years' immigration compliance

Either wait until you have 10 years' worth of compliance or apply now and ask UKVI to exercise discretion.

- For how to argue the discretion point in your covering letter, and what evidence to add, you can refer to [the naturalisation guidance](#) in your covering letter. This gives examples of when discretion "might" be exercised on page 30, and you could argue your case in your covering letter as to why you fit one of those scenarios, or that yours is analogous.
- You can also refer to the [good character](#) guidance which states, under "Approach" (p. 8 emphasis added):

Consideration must be given to all aspects of a person's character, including both negative factors, for example criminality, immigration law breaches and deception, and positive factors, for example contributions a person has made to society. The list of factors is not exhaustive.

Each application must be carefully considered on an individual basis on its own

merits. You must be satisfied that an applicant is of good character on the balance of probabilities. To facilitate this, applicants must answer all questions asked of them during the application process honestly and in full. They must also inform the Home Office of any significant event (such as a criminal conviction or a pending prosecution) or any mitigating factors that could have a bearing on the good character assessment.

- The good character guidance also states at p. 50, specifically on absence of CSI:

*If a person did not have CSI, you **must consider why they did not have it**. Where a person has been granted ILR under the EUSS but has been in breach of the EEA Regulations 2016 due to a lack of CSI you must consider **whether it is appropriate** to exercise discretion in their favour.*

Some applicants will have previously been refused permanent residence on the basis of not having CSI. When considering whether it is appropriate to exercise discretion, you must assess the reasons given for this, and why they did not then obtain CSI.

As to the last point, if you applied for permanent residence before and were refused for lack of CSI and did not then obtain CSI, your chances of success would be lower than otherwise.

Arguments you could bring to ask that discretion should be exercised in your favour will depend on your individual circumstances but might include: a statement from you and evidence as to how it was you did not know about CSI; perhaps write to your university and your first GP to ask why they did not tell you CSI was required. The response could be revealing. You could add evidence of your law abiding nature and any positive contributions you make to UK society (e.g: clear police record and good character references from school, work, community organisations, etc).

Your argument should address the guidance in demonstrating that on the balance of probabilities your evidence shows that you are of good character, because that is the standard the guidance applies. You should also bring evidence of why a refusal would be inappropriate and disproportionate, by proving, for example the particular impact on your life of not having citizenship, versus a relatively minor good character guidance breach.