

## **THE UK CITIZENSHIP PROCESS FOR YOUNG PEOPLE KEY FACTS AND REQUIREMENTS + Q&A**

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These notes are intended as a reference guide to the most common categories of British citizenship for young people, as well as issues and solutions that are commonly relevant to citizenship applications by young 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 Do not rely on printed information which may be out of date.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!

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The main citizenship categories relevant to young people under the British Nationality Act 1981 (“BNA”)

Under 18 – sections 1(3) and 3(1)	
<b>S1(3) BNA- registration <i>by entitlement</i></b>	<b>S3(1) BNA – registration <i>by discretion</i></b>
Born in UK One parent becomes settled or British	Born outside UK Show good reasons for registration <i>Always take legal advice!!!</i>
<a href="#">Good character</a> (from age 10) <a href="#">Form MN1</a> (Form MN1 guidance <a href="#">here</a> ) fee £1,012	
Any age – sections 1(1) and 1(4)	
<b>S1(1) BNA- automatic citizenship</b>	<b>S1(4) BNA – registration <i>by entitlement</i></b>
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) <b>No need to apply for citizenship - just <a href="#">apply for a British passport</a></b> Adult passport from age 16 £75.50 Child passport £49	Born in UK Spent first 10 years of life in UK No more than 90 days’ absence in each of those years <a href="#">Good character</a> (from age 10) <a href="#">Form T</a> (Form T guidance <a href="#">here</a> ) Fee child: £1,012 Fee adult: £1,206
18 and over – sections 6(1) and 6(2)	
<b>S6(1) BNA – naturalisation <i>by discretion</i></b>	<b>S6(2) – naturalisation <i>by discretion</i></b>
5 years’ residence, max. 450 days’ absence Settled for one year before applying	3 years’ residence, max. 270 days’ absence Can apply straight after settlement Spouse/civil partner of a British citizen
No more than 90 days’ absence in the last year <a href="#">Good character</a> (conduct from age 10) <a href="#">Life in the UK Test</a> (unless <a href="#">exempt</a> ) <a href="#">English language</a> (unless <a href="#">exempt</a> ) <a href="#">Form AN</a> (Form AN guidance <a href="#">here</a> ), fee £1,330	

**Procedures common to all citizenship application categories: referees, passport photos and biometrics**

All citizenship applications require:

2 referees (see pages 10 and 25 of [this 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 common issues: excess absences, questions on filling the forms, 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 the forms** – see table on p2 for links to form guidance 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.

### **Further comments: applying by entitlement or discretion, refusals and good character**

**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.

**Good character:** 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!

### Good character guidance outline

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

- 4 year + prison sentences, whenever they finished.
- 1 year to under 4 years prison sentence unless sentence finished 15 years ago.
- prison sentence shorter than 1 year unless 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***

- at the point of 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
- on the date of revocation of previously held British citizenship on grounds of deception

***Compliance with immigration requirements*** – the fact EEA nationals without 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 we 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.

<b>“Rights of residence” under the Immigration (EEA) Regulations 2016</b> <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
<u>First 3 months in UK</u> 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.	<u>Following first 3 months in UK</u> The conditions are that you exercise treaty rights and thus become a <b>qualified person</b> . 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.	<u>Automatic right as soon as 5 years’ continuous residence as a qualified person (or their family member) is completed– no application required!</u> The conditions are that you <i>or your EEA/Swiss national family member</i> , 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. The PR right comes into existence <b>automatically</b> (no PR card required!) and is lost after 2 years’ continuous absence from the UK.
<b>Rights of residence for family members under the same Regulations</b>		
<b>Direct family members</b> 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.		

Non-European family members depend on their European national family members' exercise of treaty rights completely 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.

**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.

### 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 (which may also be called an E111 form) can only be accepted a valid EHIC 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 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 (or E109 or E121), S2 (or E112) and S3. What these are is explained on pages 42-43. These can prove that the NHS would have been reimbursed by your home state for health costs.

However, the same guidance on page 38 states that cash back health schemes for dental, optical or prescription charges, or travel insurance policies, will not count as CSI.

The CSIC requirement for family members of students only entered the EEA Regs 2016 from 6 April 2015, though was enforced only from 22 June 2015.

Alternative evidence from your home country may be obtained which proves that the NHS would in fact have been reimbursed by your home country's public health system – see research done by an ECAS EU rights clinic [here](#). It would be worth reading this and contacting your country's health authority for confirmation of whether any of these applied to your period of residence during which the CSI requirement applied.

### 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 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, any volunteering or contribution to your local community or wider society, perhaps by the nature of your work 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 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.

## Q&A with the Young Europeans Network and Agnete Gribkowski November 2020 – questions grouped by theme

### Comprehensive Sickness Insurance

Holder of settled or pre-settled status, currently not meeting the naturalisation requirements because of past gaps in exercising treaty rights – need to obtain CSI? ***No. As either settled or pre-settled status are lawful leave granted under the immigration rules, as long as you keep meeting the conditions and do not lose your status through excessive absences, your stay will remain lawful. CSI would add nothing at this point. Wait until the gaps no longer form part of your 10 years before applying for citizenship or apply before that happens and ask for discretion.***

**Former student emailed university to ask why they never informed her of CSI, the reply confirms the university never did because they had no policy to do so – should this be put in with the applications?** Absolutely! This is great evidence to support your reasoning why you did not have CSI. One could also ask the relevant GP surgery although chances of a response may be lower, it could be worth a try.

**EU national has been employed for 5 years – CSI still needed?** If work was more than on average 10 hours per week and you were not absent for 6 months or more in any of those years (except for an important reason), you became a permanent resident at the end of the 5 years and could theoretically completely stop exercising treaty rights from that point. The naturalisation online application form asks for this in all cases, which is wrong and confusing to applicants.

**Would 2 weeks without CSI lead to a refusal?** Realistically, you would support your application with evidence which is spaced out over the months of each year, rather than covering every single 2 week period, so such a short gap would not even feature. Alternatively, to be extra sure, use the discretion point from the guidance in relation to inadvertent *and short* breaches, and evidence both of those elements.

**Student who worked part-time during studies – CSI needed?** So long as the work was on average more than 10 hours per week and not a course work experience placement, you can be classed as a worker for that time period.

**What other ways are there to prove CSI?** EHIC card, insurance cover via family members, insurance cover via your home state, evidenced by forms S1, S2 or S3 (request from home state)

**Wife of EU national who has held a PhD and teaching post, she started working 2 years later. Does she need CSI?** As long as the teaching post averaged 10 hours per week, she had extended right of residence alongside him, because he was a worker and thus a qualified person, and she his family member. No CSI is needed.

**Self-sufficient for 8 years out of 17 years' UK residence – need CSI** Generally yes, or use one of the workarounds. I would need to know more about the basis for the self-sufficiency and



your activities and those of any family members, in the other years to see whether PR was in fact obtained.

**Not working and no CSI before 5 year qualifying period for naturalisation – does this matter?** The guidance does require 10 years’ immigration compliance. This was tested in the courts and confirmed.

**Had an EHIC card which expired 3 months before end of studies – will Home Office overlook this?** See above – you can try to obtain proof from your home country’s health department that your health costs would have been eligible for reimbursement to the NHS. If you were also working more than 10 hours during that time, you should be classed as a worker and would not have needed CSI

Citizenship requirements

Does national insurance record impact citizenship?” *In what way? If to prove exercise of treaty rights as a worker or self-employed person, they can be extremely helpful.*

I had 2 gaps in my employment (3-4 weeks each) when I was between contracts. Will this affect my application?” *If you registered for unemployment benefit during those gaps: no. If not, you should have legal representation when you apply.*

What would happen if I cannot find the referees as requested?” *You will need referees as there is no discretion to allow absence of references, and UKVI would write to you to provide them. The list of acceptable professionals is quite long, so you may well find someone.*

For British citizenship, does the Home Office go through all the years you reside in the UK or just the 5 years prior application?” *They need a record of 10 years’ lawful residence.*

When does the qualifying period start - from the date of first arrival or the last 5 years? having 1 week between jobs&no insurance?” *There are two periods: the 5 or 3 years’ residence requirement based on the BNA 1981 and the 10 years’ immigration compliance requirement under the Good Character requirement. Immigration compliance is looked at for the whole 10 year period, whereas allowable absences (270 or 450 days, and no more than 90 of those in the last year) is looked at in relation to the 3 or 5 year residence requirement.*

How long can I stay outside the UK to get the passport?” *Please clarify. In the last year of residence before the citizenship application, you must not have been out of the UK for more than 90 days, although excessive absences can be excused in certain circumstances, see notes above. There is discretion under the guidance.*

Can I apply for citizenship if I have been studying for the past 6 years in the UK without CSI?” *If you worked more than 10 hours on average per week you can be classed as a worker instead of a student, so no CSI needed. If not, and you held and EHIC card, this can be used as evidence of being covered so long as you can add legal arguments into your covering letter as to why that should be accepted despite the fact your residence turned out not to have been*

*temporary. If you don't have that, ask your home state to confirm via one of the other acceptable forms (S1-S3) that you were covered.*

Do we need to satisfy the CSI requirements now if we've only been working in the last 3 years (and were student before)?” *Your time as a student would need to be covered either by being classed as a worker instead, or CSI. See above re: how to prove CSI or ask for EHIC/S2 to be accepted. You can also ask for discretion to be exercised under the Good Character guidance.*

Is the CSI rule reinforced by HO in late September asking for 10 years' worth of CSI if someone has been a student or self sufficient?” *The Good Character guidance has required 10 years' lawful residence since December 2014. For the other elements of this question, see above.*

2014-2015 no CSI, 2015-2020 self employed. Can I apply for the citizenship? 'Thanks.’” *For the first 3 months of residence no CSI is needed for anyone as there is no requirement to exercise treaty rights during initial right of residence. See above on discretion.*

Can I apply for citizenship if I did not have CSI for one year in the 5 years prior to applying (I was studying)?” *See above on alternative ways of proving CSI equivalent, or being a worker.*

I'm worried about times where I didn't have CSI, when I was simply moving jobs and had a few weeks off between them” *See above re: short periods out of employment. If registered with Job Centre in between, you will have maintained your worker status. Also query whether an EEA or Swiss family member was exercising treaty rights at the time.*

## Dual citizenship

I am a German National and I know that Germany does allow dual citizenship. A friend of mine is now applying to becoming British as she has read that you may be able to keep your two citizenships once you have applied before the Brexit deadline at the end of this year (31 Dec 20) Would the logical conclusion be that after the deadline you would not be able to keep your first (German in my case) citizenship? Please could you confirm this is true and what the actual costs are? Is it around £1,300? Does it also count to being covered on CSI by your partner / husband? Money is an issue however am feeling it is so important to exercise my right to vote so am really in two minds about it.” *The German embassy confirms that the only way to apply after the end of 2020 and retain German nationality is by way of a Beibehaltungsgenehmigung (permission to retain) first. If you apply before, as Germany allows acquisition only of other EU states (and the UK is still within transition despite having left the EU on 31 January 2020), Germany will let you keep both. Normally I cannot advise on other countries' requirements but I have several German clients right now so I have up to date knowledge as at this week.*

I think my country allows dual citizenship, but do I need to inform them if I get British citizenship?” *Please consult your embassy's website and official government pages on dual nationality and what the requirements are as I can only advise on UK law. The citizenship application will ask you about your other nationalities. As far as the UK is concerned, that is*

*the only way you need to inform UKVI, but your country may have its own requirements in that regard.*

Life in the UK test

My Greek partner is taking her citizenship test today (Saturday 14th). Are we likely to get the test result before the UK leaves the EU at the end of the year? If she doesn't pass, do you envisage there being any barriers taking the test again if we left the EU without a deal?" *Citizenship applications are not affected by the end of the transition period, other than, as far as I know in the case of German nationals (see above). If there are other such scenarios as the German one, where the law in that country, as to dual nationality in relation to the UK, changes on a certain date. Please consult the Greek embassy.*

Miscellaneous

On the radio-ad about immigration, they mentioned a licence that UK employers would need and pay to hire European citizens. It sounded like it would only apply to new hirings after the Brexit. However, I was wondering how does this impact European citizens that arrived in the UK before Brexit. If we are changing jobs post Brexit, would this rule apply to us? And so, giving us an unfair disadvantage?" *The requirement to apply for a work visa, and for your employer to have a sponsorship licence, only applies for new arrivals from 1 January 2021, so it will not affect you. You can continue to work and change jobs freely as you already live here.*

I am a key worker does the Home Office apply like Boris Johnson stated this year, tax reduction for us?" *Apologies, but unless I am misunderstanding your question, that is a tax matter on which I cannot advise.*

I have been in the UK for 5 years and 7 months however I got settled status before the 5 years at 4 years and 7 months" *I would need to know the circumstances under which this decision was made as there are categories in which early settlement is possible. As far as citizenship is concerned, what matters is that you have held EUSS for one year unless married to a BC; that you can prove 5 (or 3) years' residence without gaps in residence of more than 450 (or 270) days; that you were not absent for 90 days or more in the last year before application; and that you were lawfully resident for 10 years (or your whole residence, if you arrived less than 10 years ago). You still also have to read the whole good character guidance to ensure nothing in this points to a refusal. If it does, speak to a lawyer.*

With last month's policy change in citizenship applications for EEA/EU citizens, a caseworker can now examine whether the applicant is of 'good character' (ie. has not been in breach of immigration laws) going back 10 years rather than 5 years as previously. I'm an EEA citizen (Icelandic) and have lived in the UK 10 years but was unknowingly in breach of CSI for 17 months 7 years ago. My question is: In a citizenship application, Is it better to not mention one was in breach of holding CSI and let the caseworker find this out, or is it better to explain why

one didn't hold CSI during a particular period (ie. not knowing it was required)? *Definitely disclose as deception in a citizenship application could leave you barred from applying again for 10 years (see good character guidance). However, first read through these notes as to whether there are other ways in which you might have been a qualified person, or whether you can obtain documents from your home state to confirm you were reciprocally covered.*

I have settled status in the UK but am currently working as a frontier worker from Belgium. Is there a chance for me? *Difficult for me to answer without knowing the length of your absences so far and future plans. If you can get your absences within the law or at least the discretion (for excessive absences) in the naturalisation guidance (see above), and if you can prove that your future intention is to have your main home in the UK, it could work.*

Could an EEA National holding a Document Certifying Permanent Residence (DCPR) apply for naturalisation as a British Citizen between January and June 2021, when they have not applied under the EU Settlement Scheme (EUSS)? Would holding settled status under the EUSS become a pre-requisite to apply for naturalisation after 01/01/2021? *Yes, new regulations on the “grace period” mean your status is carried over, past the end of 2020.*

How do they perform the checks on number of days abroad in the last 5 years? I spent time abroad working but can't justify *Apparently you can request your entry and exit records from UKVI by way of a particular subject access request, but I have not attempted this yet. This means records are being kept of exit and entry, presumably via scanning of your biometric passport.*

Signposting Q & A

Is there agencies that help preparing/assessing Citizenship application form as you'll do with a mortgage broker?" *There used to be a town hall nationality checking service, but that has been abolished. Yes, immigration solicitors and immigration advisers do, and some charities.*

## 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](#). 3 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)** – 3 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](#)

