

**Briefing in response to Joint Committee on Human Rights, Good Character Requirements:
Draft British Nationality Act 1981 (Remedial) Order 2019 - Second Report**

The Committee rightfully highlighted in this report the fees children must pay to register as British “are now well above cost recovery” and as a result “children from more disadvantaged backgrounds, and children in local authority care who are less likely to be able to afford the fees are more likely to be disadvantaged by the fee level impeding their ability to register as British nationals”. There are thousands of children in the UK who were born here and who have grown up here but who are denied legal recognition of their Britishness because of the impossibly high fee.

Coram welcomes the Committee’s calls for “Home Office fees for children who have a right to be British should be proportionate to the service being offered” and for local authorities to ensure that children in care are supported to register as British if they wish to and are eligible to do so.

The importance of citizenship

“The removal of this fee is unnecessary, given that becoming a citizen is discretionary and not necessary to enable an individual to live, study and work in the UK.”

Rt Hon Caroline Nokes MP, Minister for Immigration, 5th March 2019¹

Coram is deeply concerned by the government’s view that citizenship is a luxury and that children can simply live without until they can pay for the fee.² The government has also suggested that having indefinite leave to remain affords the same rights and benefits. This is not the case.

The Home Office’s own guidance states that:

‘...becoming a British citizen is a significant life event. Apart from allowing a child to apply for a British citizen passport, British citizenship gives them the opportunity to participate more fully in the life of their local community as they grow up.’³

Citizenship is a unique legal bond and only citizenship confers equal rights with other British citizens. It is the most secure position for a child – it is permanent and can only in very rare cases be revoked. By contrast, if someone has indefinite leave to remain (i.e. is settled), the Home Office can revoke (take away) their leave and potentially deport them in certain circumstances, particularly where the individual has been convicted of a criminal offence or used deception to be granted leave. Too many young people in the criminal justice system, including those who have been in care, face having their leave revoked and being deported, sometimes to a country they have not been to since they were an infant. Some of these young people could have obtained British citizenship if only the right application had been made for them.

Obtaining British citizenship creates stability for the child, and is vital for the child’s sense of their own identity. Many young people do not hold British nationality but feel strongly that they are citizens of the UK, and engage in their civic duties here. Ambassadors from Coram’s Young Citizens

¹[https://hansard.parliament.uk/commons/2019-03-05/debates/2eb2dd65-51c1-4a72-82ad-4de5ec48dc97/ImmigrationAndSocialSecurityCo-Ordination\(EUWithdrawal\)Bill\(TenthSitting\)](https://hansard.parliament.uk/commons/2019-03-05/debates/2eb2dd65-51c1-4a72-82ad-4de5ec48dc97/ImmigrationAndSocialSecurityCo-Ordination(EUWithdrawal)Bill(TenthSitting))

² HL Deb 21 March 2016, vol 769, part 129, col 2217, available at:

<http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160321-0004.htm#16032216000138>

³ Guidance on the MN1 form on which children register as British

programme for young migrants were asked what 'citizenship' means to them. Their responses were: responsibility; help; security; belonging; identity; home; community; and shared interests and values. Although many of the young people on the programme do not have legal citizenship, they feel a sense of belonging, community and security in the UK.

British citizenship affords diplomatic protection. Obtaining British citizenship is also important for progression in education including accessing scholarships, going on study trips and going to university and for pursuing certain career paths, including joining the armed forces, civil service or the police. Citizenship determines children and young people's political participation and enfranchisement once they turn 18.

Question for the Minister:

Does the government recognise that British citizenship and indefinite leave to remain are simply the not the same in terms of the entitlements and security they bring and that having British citizenship for those entitled to it is a fundamental part of a child's right to an identity?

Fees and lack of fee waivers

Nationality applications have, since 2007, been subject to the same escalation of fees as immigration applications. The fee for citizenship applications is now £1,012, of which the actual cost of processing the application is only £372. 63% of the fee is revenue-raising.

In many of these cases what is being charged for is a recognition of pre-existing entitlement under the British Nationality Act 1981, where the Home Office has not been asked to grant but is merely to recognise.

The Home Secretary himself has recognised that this figure 'is a huge amount of money to ask children to pay for citizenship' and the Immigration Minister has confirmed that the government is looking at citizenship fees in the fun up to the Comprehensive Spending Review.

Fee waivers are only available for applications for limited leave to remain. There is no fee waiver for settlement (ILR) or citizenship. CCLC runs a pro bono project helping families to make children's citizenship applications and has made over 70 applications. In the majority, where the child is not in care, the families have all been on a very low income and struggled to raise the very high and ever increasing application fee. Many applications are delayed for over a year whilst the fee is raised, or have to be abandoned entirely. In some cases, children are instead having to apply for short, unstable periods of leave over establishing their permanent legal connection to the UK, because they can only get a fee waiver for leave to remain applications.

Question for the Minister:

The government has committed to ensuring that the issues highlighted by the Independent Chief Inspector of Borders and Immigration [report on charging for services](#) will be 'factored into spending review considerations on fees' and to undertaking further consultation. Will the government commit to completing that review even if the Comprehensive Spending Review is confirmed to be delayed?

Does the government agree that introducing a fee waiver for citizenship applications would help protect the rights of the most vulnerable children living in destitute, or near-destitute, families?

Local authority duties

The JCHR is right to highlight the need for local authorities to assist children in care to apply for citizenship where it is in their best interests to do so. However, there is no fee exemption for children in care to apply for citizenship (although there is for them to apply for indefinite leave to remain). As a result, local authorities are de-incentivised from applying for citizenship and bad practice in this area is well-documented: in 2016 Local Government Ombudsman case found that one London Council failed to act appropriately and in a timely manner to help a former relevant child regularise her immigration status after she became looked after, and was made to pay out £5,000 in damages.⁴

For children in care, it is a cost-shift to use the limited local authority resource to pay a Home Office application fee to register a child as a British citizen. The Ministry of Justice has brought back legal aid for separated migrant children in care – a move towards regularising all children in care which is very welcome. The Home Office should recognise that it will be in the best interests of some children in state care to make applications for citizenship – either by entitlement or by discretion – and that it is therefore in the best interests of these children, and in the interests of the state as their corporate parent, for looked after children’s fee exemptions to extend to citizenship applications.

Question for the Minister:

Does the government recognise that local authorities have a duty, as corporate parents, to support children in care to secure the most permanent status for which they are eligible? If it does, does it accept that to charge children in care for citizenship applications is a cost-shift that creates extra financial pressure on local authorities?

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⁴ See Local Government Ombudsman, Investigation into a complaint against Royal Borough of Greenwich, reference number: 13 019 1061 (January 2016)