

Border Security, Asylum and Immigration Bill, HL Bill 136

House of Lords Report, October 2025 Nationality Guidance: Good Character Requirement

THE LORD BISHOP OF CHELMSFORD
LORD GERMAN BARONESS
LISTER OF BURTERSETT

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After Clause 48, insert the following Clause—

“Good character requirement for citizenship

(1) Part 5 of the British Nationality Act 1981 is amended as follows.

(2) After section 41A, insert—

“41B Good character requirement

(1) A good character requirement must not be applied in a manner contrary to the United Kingdom’s obligations under—

...

(2) When considering whether a person (P) meets a good character requirement, the Secretary of State may not take into account P’s illegal entry to or arrival in the United Kingdom—

(a) if P was under the age of 18 at the time of such entry or arrival, and

(b) except to the extent specified in guidance published by the Secretary of State and in force at the time of such entry or arrival.

(3) In this section—

“a good character requirement” refers to the requirement or consideration that an adult or young person, applicant, or person who applies for naturalisation or registration is of good character in section 41A (registration: requirement to be of good character), section 4L (acquisition by registration: special circumstances), section 17I (acquisition by registration: special circumstances), and paragraphs 1 and 5 of Schedule 1;

...

Member's explanatory statement

This new clause would ensure the good character requirement is not applied contrary to the UK's international legal obligations across a number of instruments. It also ensures that an assessment of good character may not take into account a person's irregular entry or arrival to the UK if they were a child, and it may only be taken into account to the extent specified in guidance published and in force at the time of an adult's irregular entry or arrival.

Introduction

New Clause 60 concerns changes to the Secretary of State's policy guidance: [Nationality: good character requirement](#) ("the guidance"), which were made around the time of this Bill's Second Reading in the other place on 10 February 2025. In essence, the changes ("the February changes") reintroduce in policy what this bill will repeal from statute.¹ Importantly, this will remove the absolute nature of a statutory bar, but it retains the basic error at the heart of what the Illegal Migration Act 2023 did.

We support the motivations behind the New Clause, which were explained when an earlier version was moved at Committee stage with clear focus on the naturalisation of refugees.² Nonetheless, as emphasised by the minister's response to that earlier debate, there is a need to consider the context for the February changes more widely. Mere revision or withdrawal of those changes, though needed, is inadequate because law, policy and practice concerning good character is doing profound harm.

Conflation of registration and naturalisation

The most fundamental error concerning the approach to 'good character' is the conflation of entirely distinct means by which British citizenship is acquired. As PRCBC and Amnesty have repeatedly emphasised, registration and naturalisation are different in nature and purpose, and in relation to the people to whom they apply. Disturbingly, the changes to guidance repeat and further entrench this categorical error (as did the Illegal Migration Act 2023).³

Registration of British nationality was made a feature of British nationality law in the British Nationality Act 1948; and retained in the British Nationality Act 1981. Its purpose is to provide the means for people who are of this country or connected to this country to formally secure their membership of it.⁴ Contrary to ministers' repeated statements, securing British citizenship by registration is not a mere privilege.⁵ Those

¹This will be done by repeal of sections 31ff of the Illegal Migration Act 2023.

²[Hansard HL, 13 October 2025 : Cols 116ff](#) per Baroness Lister of Burtersett

³The speeches of Lord Moylan on the Illegal Migration Act 2023 in opposing its impact on registration of British citizenship succinctly describe and show the vice of this categorical error, see [Hansard HL, Committee, 12 June 2023 : Col 1746ff](#); and [Report, 3 July 2023 : Col 1054ff](#).

⁴PRCBC's booklet [Children and their rights to British citizenship](#) explains the key provisions relating to the rights to British citizenship, at birth or by registration later, of children born in the UK and of children born outside the UK.

⁵The Home Office Minister of State repeated this error in Committee, see [Hansard HL, 13 October 2025 : Col 123](#). By contrast, in a clear statement of distinction by the then Minister for Security and Immigration, when explaining the Government's position on seeking an extension of its powers to strip people of British

who acquire their citizenship by registration are as much citizens by right and connection to the UK as any of their peers who acquire citizenship at birth. The impact of degrading the significance of registration is to undermine the UK's nationality and promote racial inequality because the need for registration by people with a right to British citizenship falls disproportionately upon people who are not white.⁶

Naturalisation as a British national has a far longer history. It concerns how an adult migrant to this country may be permitted to become a British citizen. It has always concerned how someone regarded as of some other territory or country may be made British.

Registration – unlike naturalisation – relates to children and adults with rights to British citizenship. In most cases registration is by express statutory entitlement.⁷ This reflects its distinct nature and purpose. When Parliament has made British Nationality Acts it has, accordingly, not included any requirement of good character for any person identified as a citizen by right – whether their citizenship is to be acquired, for example, at birth or by registration. By contrast, a statutory requirement of good character has long been a feature of naturalisation and was retained when the British Nationality Act 1981 was passed.

Governments have since made various piecemeal amendments to the British Nationality Act by various Immigration Acts. This method of legislating has frequently obscured the distinct nature and purpose of the nationality law that is being interfered with. An example of this was the Nationality, Immigration and Asylum Act 2006, which first introduced a good character requirement for registration.⁸ The provision received little attention in debate. Ministerial statements during the Act's passage reveal a fundamental misunderstanding of the purpose of registration and the circumstances of the people affected – including a failure to recognise that most of the people affected are children and adults born in the UK.⁹

Ultimately, what is needed is repeal of what is now section 41A of the British Nationality Act 1981.¹⁰ That provision wrongly discriminates between people with the right to British citizenship by requiring some of them to prove themselves to be 'good' merely because their right requires the formality of registration. Pending repeal, the guidance and practice at the Home Office require fundamental revision. This must ensure that the application of a requirement of 'good character' for registration of a person's right to British

citizenship, James Brokenshire at least recognized as 'privilege' only the seeking of naturalisation and expressly not the registration of British citizenship, see [Hansard HC, 11 February 2014 : Col 262WH](#).

⁶ Further analysis is provided in our [joint briefing to a cross-party amendment](#) in the names of Lord Moylan, Lord Hodgson of Astley Abbotts, Lord Blunkett and Baroness Lister of Burtsett to the Nationality and Borders Bill 2021-2022.

⁷ e.g., section 1(3) and (4), British Nationality Act 1981

⁸ Section 58 of the Nationality, Immigration and Asylum Act 2006 was commenced in December of that year. Since then, section 49 of the Borders, Citizenship and Immigration Act 2009 effected a consolidation by replacing section 58 of the 2006 Act with what is now section 41A of the British Nationality Act 1981.

⁹ We have previously explained this history in [submission to the Joint Committee on Human Rights](#) when that committee considered the draft British Nationality Act 1981 (Remedial) Order 2019.

¹⁰ Section 41A applies only to registration. Naturalisation is subject to a distinct provision concerning character, which is found in paragraph 1(1)(b) of Schedule 1 to the British Nationality Act 1981.

citizenship is not treated as if it is simply the same as the requirement of ‘good character’ that is a precondition for consideration of a migrant adult’s request to be naturalised.

Children’s rights

A further longstanding failing of the guidance is its general lack of care for the distinct circumstances of children. Almost the sole exception to that has been a recognition that children are not generally culpable for how they are sent or brought to the UK. The February changes have raised the concern that this insufficient but nonetheless important consideration of children will be compromised. This is because these changes do not expressly take account of children and so threaten to override the pre-existing limited recognition of children’s circumstances.

In response to a Written Question, the Minister of State confirmed:

“When assessing good character, it is normally appropriate to disregard immigration breaches if it is accepted this was outside of the applicant’s control. Given illegal entry is normally considered outside a child’s control, most children would not be held accountable for their immigration breach. The 10 February 2025 amendments to the good character policy did not alter this position.”¹¹

The then Minister for Migration and Citizenship provided similar reassurance in writing to the Chair of the Home Affairs Committee.¹² These helpful clarifications have nonetheless proved inadequate. PRCBC has received reports of refusals on character grounds based on how the person entered the UK when a child. **Ministers should again be invited to revise the guidance so that it clearly reflects the positive statements they have made.** However, the Minister’s explanation of the reluctance to do so raises a far wider concern. In Committee, he assured the House that the guidance provided “*flexibility*.”¹³ PRCBC’s experience is that this guidance, not merely the February changes, is routinely applied in a rigid fashion. This increases the injustice done, most especially to people born in this country who have lived here their entire lives and are deprived of the British citizenship that is theirs by right. This continues even in people’s 30s and 40s and when many years have passed since any offence or other conduct that is treated by the Home Office as cause to refuse to register their statutory entitlement to citizenship on character grounds.

Character assessment

A third fundamental error in the guidance – which is repeated in the February changes – is to treat a requirement of ‘good character’ as providing discretion or opportunity to pursue some separate aim.¹⁴ This error is especially acute in relation to the requirement that applies to registration by entitlement because there is no element of discretion about the fulfilment of what is a statutory right. In such circumstances, a

¹¹Hansard HL, [31 March 2025 : UIN HL5846](#)

¹²[Letter of 3 April 2025](#)

¹³Hansard HL, [13 October 2025 : Col 123](#)

¹⁴Such as the policy aims that were expressly the purpose of the Illegal Migration Act 2023 (see section 1(1) of that Act) and those more recently expressed to be the purpose of the February changes, see e.g., [Hansard HL, 12 February 2025 : Cols 1252, 1254 and 1255](#) per the Home Office Minister of State.

requirement of 'good character' cannot provide any legitimate vehicle for either penalising past conduct (whether this concerns breaches of criminal law or immigration rules) or deterring others from such conduct.

A related error of the guidance is to simply treat past conduct as a proxy for current assessment of character. It is to assume both that the commission of the earlier conduct is alone sufficient to show the person's character to be 'bad' at that time and to assume that assessment must apply sometime, even years or decades, later. This error is especially acute in relation to children and young people, who are at a stage of life now clearly recognised – but not in Home Office guidance or practice in applying a 'good character' requirement – to be one of fundamental development, including of the brain, personality and capacity for moral reasoning, taking responsibility and exercising self-control.¹⁵

¹⁵ e.g., *R v ZA* [2023] EWCA Crim 596, where the Court of Appeal recalled at paragraph 52: “*It has been recognised for some time that the brains of young people are still developing up to the age of 25, particularly in the areas of the frontal cortex and hippocampus. These areas are the seat of emotional control, restraint, awareness of risk and the ability to appreciate the consequences of one's own and others' actions; in short, the processes of thought engaged in by, and the hallmark of, mature and responsible adults. It is also known that adverse childhood experiences, educational difficulties and mental health issues negatively affect the development of those adult thought processes. Accordingly, very particular considerations apply to sentencing children and young people who commit offences. It is categorically wrong to set about the sentencing of children and young people as if they are "mini-adults". An entirely different approach is required.*”