

## **Written submission submitted by Project for the Registration of Children as British Citizens (PRCBC) (GFC0002)**

1. This submission concerns Home Office fees charged in relation to rights to British citizenship. As explained in this briefing that concerns Home Office fees for registration of British citizenship (“Home Office registration fees”). The submission is divided into five sections under separate headings as follows:
  - a. Our organisations – this briefly introduces our two organisations and our interest in these fees.
  - b. Rights to British citizenship – this briefly explains the origins of British citizenship and the significance of registration.
  - c. Fees for British citizenship rights – this identifies the fees with which we are concerned and justifications advanced for them.
  - d. Evaluation – this addresses the primary concern of the Committee with value for money in relation to these fees.
  - e. Recommendations – this summarises our key recommendations.
2. In summary, Home Office registration fees (i.e., fees for registration as a British citizen) are in key respects unjust and illegitimate. They undermine the nationality of the UK by alienating a substantial minority of the people of the UK (i.e., those people who have rights to its nationality). That alienation is most tangible when it causes a British person (such as someone born in the UK who has always lived here) to be deprived of the British citizenship that is their right because it is unaffordable to them. The imposition of Home Office registration fees that are significantly above the cost of administering the registration process (i.e., above cost-recovery) has this impact. Such fees are not ‘value for money’ but an illegitimate tax imposed on some British people because, unlike most of their peers, they require their citizenship to be formally registered. This injustice arises from a fundamentally misplaced conflation of nationality and immigration functions as if the two are of the same or similar nature or purpose.

**(a) Our organisations:**
3. The Project for the Registration of Children as British Citizens (PRCBC) is the only charitable organisation in the UK with a sole and expert focus on the rights, particularly of young people, to the UK’s nationality (British citizenship). We were founded in 2012 to raise awareness of rights to British citizenship and assist young people to secure their citizenship rights including by legal casework, higher court litigation, training lawyers and others supporting children, disseminating information, and other work. We give priority to complex casework and litigation to address the circumstances of children with especially acute needs by reason of such factors as their social marginalisation, poverty, mental, learning, or physical disability, and experiences of neglect, abuse or violence; or the particular legal or evidential complexity of their legal cases. Home Office registration fees has been one of several key focuses for our work, including litigation in the higher courts that has led to the introduction of an exemption from these Home Office fees for looked after children and the possibility of a fee waiver for children unable to afford these fees.<sup>1</sup>

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<sup>1</sup> This is expressly acknowledged in the Explanatory Memorandum to the Immigration and Nationality (Fees) (Amendment) Regulations

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4. Amnesty International UK is the UK section of Amnesty International. We work on domestic and international human rights issues that are of concern to or relate to the UK. We have supported the work of PRCBC, including in relation to fees, for almost a decade.

### **(b) Rights to British citizenship**

5. British citizenship is the nationality of the UK. It was created by the British Nationality Act 1981 with effect from 1 January 1983. The purpose of the Act in creating British citizenship was that this nationality should be founded on a principle of connection to the UK.<sup>2</sup> To that end, the Act establishes various rights of acquisition of British citizenship by birth, adoption, commencement, and registration. These rights all relate to people identified as belonging or connected to the UK and so with a right to its nationality.
6. The British Nationality Act 1981 ended the application of *jus soli* in British nationality law. Previously, for example, a person born in the UK would by that fact alone acquire British nationality. In passing the Act, Parliament nonetheless recognised that all children born in the UK who grew up here would be connected. One important purpose of rights of registration under the Act is, therefore, to ensure that children who grow up here are formally recognised with British citizenship. There are other circumstances in which registration of British citizenship is provided for. These are each for the purpose of formally recognising with that citizenship a person whose circumstances establish their connection to the UK.<sup>3</sup>

### *Examples of rights to British citizenship by registration:*

7. Some examples are as follows:

#### *Statutory entitlements*

- 7.1. A child born in the UK to parents, neither of whom is a British citizen or settled,<sup>4</sup> is entitled to be registered as a British citizen if a parent has become a British citizen or settled.<sup>5</sup>
- 7.2. A person born in the UK to parents, neither of whom is a British citizen or settled, is entitled to be registered as a British citizen if they continue residing in the UK up to their tenth birthday.<sup>6</sup>

#### *Discretion*

- 7.3. There is a general and unfettered discretion to register a child as a British citizen.<sup>7</sup> This provides the means to ensure all children connected to the UK can be

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2022, SI 2022/581 which introduced the exemption and waiver. The matter, including the litigation, is more fully discussed in *Reasserting Rights to British Citizenship Through Registration: Judicial Review of the Registration Fee*, IANL, Vol 36, No 4, 2022, pp285-299.

<sup>2</sup> See e.g., White Paper, *British Nationality Law: Outline of Proposed Legislation*, July 1980, Cmnd 7987, paragraph 37 and *Hansard HC*, 3 June 1981 : Cols 979-980 *per* Timothy Raison MP, Home Office Minister. This is more fully discussed in *Reasserting Rights to British Citizenship Through Registration*, IANL, Vol 34, No 2, 2020, pp139-157.

<sup>3</sup> PRCBC's booklet, *Children and their rights to British citizenship*, April 2025 provides further information on rights to be registered as a British citizen, particularly as this affects children.

<sup>4</sup> A child born in the UK to a parent who is a British citizen or settled is automatically a British citizen at birth: section 1(1), British Nationality Act 1981

<sup>5</sup> Section 1(3), British Nationality Act 1981

<sup>6</sup> Section 1(4), British Nationality Act 1981

<sup>7</sup> Section 3(1), British Nationality Act 1981

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formally recognised with citizenship. This may be needed because the child is without access to evidence to show they were born a British citizen or have an entitlement to be registered. It may be needed because not all circumstances in which children will become connected to the UK were foreseen or could be specified among the various statutory entitlements within the British Nationality Act 1981. The discretion has especial application to children brought to the UK at an early age who grow up here.

7.4. Parliament has recently amended the British Nationality Act 1981 to include discretion to register an adult as a British citizen where this is necessary to correct some past injustice that has caused the person to be without the British citizenship they would otherwise have had.<sup>8</sup>

8. In most cases, the person's registration will be by express statutory entitlement.<sup>9</sup> In all cases, the process is formal recognition of the person's connection to the UK, giving effect to the originating purpose of creating British citizenship. The registration process requires a registration application to be made to the Home Office,<sup>10</sup> for which a fee is charged (i.e., the Home Office registration fee).<sup>11</sup>

*Distinction between registration and naturalisation:*

9. Registration is distinct from naturalisation. Naturalisation is the process by which, at the discretion of the Home Secretary, an adult migrant to the UK, who has been permitted to settle here, may be made a British citizen.<sup>12</sup> Naturalisation has its own importance and purpose. However, this submission is concerned with the right to British citizenship by registration. It is, therefore, concerned solely with fees for registration of British citizenship (and not with fees for naturalisation).

### **(c) British citizenship and Home Office registration fees**

10. The British Nationality Act 1981, as originally made, included the power to charge fees for nationality applications.<sup>13</sup> The intention was that these should be charged at cost-recovery levels.<sup>14</sup> Government legislation in the mid-2000s merged the power for charging these nationality fees with the power to charge immigration fees.<sup>15</sup>

*Above cost-recovery charges and the justification given for them:*

11. At the time the powers were merged for charging nationality and immigration fees, it also introduced the power to charge for various Home Office functions at above cost-recovery – i.e., above the cost of carrying out the function for which the fee was charged

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<sup>8</sup> Section 4L, British Nationality Act 1981

<sup>9</sup> Sections 3(1) and 4L, British Nationality Act 1981 provide exceptions. Registration under these provisions is discretionary. These are briefly summarised in paragraph 7 of this submission and relate to rights to British citizenship. Section 3(1) is more fully discussed in *Reasserting Rights to British Citizenship Through Registration: the section 3(1) discretion to register children*, IANL, Vol 37, No 3, 2023, pp263-270.

<sup>10</sup> The statutory language of provisions for registration adopts the term “on an application for his registration” (or some similar alternative).

<sup>11</sup> Regulation 16, Immigration and Nationality (Fees) Regulations 2018, SI 2018/330 requires that an application is to be treated as invalid if the specified fee is not paid.

<sup>12</sup> Section 6 and Schedule 1, British Nationality Act 1981

<sup>13</sup> Section 41(2), British Nationality Act 1981

<sup>14</sup> *Hansard* HC, Standing Committee F, 12 May 1981 : Col 1884

<sup>15</sup> This led to the first Immigration and Nationality Fees Order and Regulations in 2007 (SI 2007/807, SI 2007/936, and SI 2007/1158) made under powers in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and the Immigration, Asylum and Nationality Act 2006.

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(such as processing an application). The purpose was said to be to represent (some of) the benefit of what was charged for.<sup>16</sup>

12. Nationality and immigration fees are now charged under powers in the Immigration Act 2014.<sup>17</sup> Nationality fees are charged at far above cost-recovery with a justification that significantly relies on this notion of benefit.<sup>18</sup> That justification also relies on a broader assertion that the recipients of what is said to be this benefit should also pay for the immigration system.<sup>19</sup>
13. At the time of introducing fees at above cost-recovery, the Home Office and Foreign & Commonwealth Office jointly conducted a consultation.<sup>20</sup> While that consultation included a question concerning citizenship fees,<sup>21</sup> throughout the consultation its authors made clear their focus on migration to the UK and the UK's immigration system. There was wrongly no distinct consideration of the right to British citizenship of people born here or others identified as connected to the UK, including where that right requires the formality of registration.<sup>22</sup> The Government response to that consultation identifies the underlying rationale that remains at the heart of all nationality fees:

*"Applications for nationality will be priced above the administrative costs of reaching a decision **to reflect the value to the migrant of a successful application.** We accept that it is difficult to attach a monetary value to citizenship but believe that the move to British citizen status confers a number of privileges and entitlements that are highly prized."*<sup>23</sup>

14. As with all subsequent consideration – including consultation and impact assessment – rights to British citizenship are either ignored or not understood. The rationale is expressly concerned with migrants, not people born in the UK (nor anyone with a right to British citizenship). The move to British citizen status concerns naturalisation (described in paragraph 9 above). It does not concern registration. The Home Office does not confer 'privileges and entitlements' when it registers a person's British citizenship. Rather, in registering a person as a British citizen, it carries out a formality that is necessary to fulfil the statutory right of that person to that citizenship. Accordingly, the rationale does not concern registration. It is about, and solely about, naturalisation.<sup>24</sup>

### (d) Evaluation

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<sup>16</sup> See e.g., House of Commons Library Research Paper 03/88, *Asylum and Immigration: the 2003 Bill*, 11 December 2003, p93

<sup>17</sup> Sections 68-70A, Immigration Act 2014

<sup>18</sup> The fee for a child to be registered as a British citizen is now £1,214 and the fee for an adult now £1,446 against an estimated administrative cost for each of £575. An application to review a refusal costs a further £482 (although it is reimbursed if that review application is successful). Less than two years ago, the estimated cost of review applications was £416.

<sup>19</sup> See, e.g., fn. 23 below

<sup>20</sup> *A consultation on a New Charging Regime for Immigration and Nationality Fees*, October 2006

<sup>21</sup> Question 3, *ibid*

<sup>22</sup> The consultation includes no reference to registration of British citizenship. The joint ministerial foreword is express that the focus was managing migration to the UK and paying for the immigration system. The remainder of the consultation follows that focus. The only question on citizenship fees solely considered the circumstances of migrants to the UK, the entitlements that they might accrue if permitted to come or stay, and the particular immigration 'route' with which any fee was associated. This was all about naturalisation.

<sup>23</sup> Paragraph 3.4, *A Response to the Consultation on a New Charging Regime for Immigration & Nationality Fees*, March 2007

<sup>24</sup> We make no comment on the adequacy of the justification in respect of naturalisation or the impact of fees for that. This submission is solely concerned with rights to British citizenship and, therefore, fees for registration with British citizenship. As indicated, the justification for above cost-recovery fees has neither considered registration nor properly applies to registration.

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15. We first consider above cost-recovery charging then fee exemptions and waivers.

### *Above cost-recovery charging*

16. Charging a fee to fulfil a statutory entitlement to British citizenship is categorically different from charging a fee to a migrant adult seeking to naturalise. Fulfilling a statutory entitlement to register a person as a British citizen is not delivering a benefit. It is giving effect to Parliament's determination of the people connected to the UK for the purpose of having the right to the UK's nationality. It is, therefore, in principle wrong to treat registration of a statutory entitlement to British citizenship in the same or similar way to charging fees for naturalisation or immigration applications. Moreover, given the purpose of section 3(1) and 4L of the British Nationality Act 1981 (see paragraph 7 above) and registration generally, it is equally wrong to treat registration under these provisions in the same or similar way to charging fees for naturalisation or immigration applications.<sup>25</sup> For the same reasons, it is wrong to charge above cost-recovery fees to register a person as a British citizen.

17. The impact of above cost-recovery charging is to exclude some people from their British citizenship rights (i.e., people with the right to citizenship who cannot afford to pay); and to tax others significantly for the British citizenship that is their right (i.e., people with the right to citizenship who do pay). This alienates some of the people of the UK who are either deprived of their British citizenship or, unlike their fellow citizens, taxed for it.<sup>26</sup> A minority of the people with a right to citizenship (i.e., those who require registration) are taxed to pay for an immigration system that is no more to their benefit than the many other British people who are largely excused from paying for that system.<sup>27</sup>

### *Fee exemptions and waivers*

18. The exemption of looked after children from Home Office registration fees and the possibility of a fee waiver for children who cannot afford the fees each provide important though insufficient mitigation of the foregoing concerns.<sup>28</sup> However, the fee waiver process is unduly complex and demanding, including the form by which any application for a waiver must be made. This process not only serves as a significant deterrent to making an application, rendering the waiver process ineffective. It creates excessive work for the Home Office in handling and considering all the information that is demanded, making that process inefficient. This includes demanding evidence of means of multiple members of a family or household, who cannot reasonably be expected to pay the child's fee; and demanding evidence of means in circumstances where the State has already satisfied itself of relative poverty in granting one or more means-tested benefits. We have expanded on these concerns in a submission to the Independent Chief Inspector of Borders and Immigration, which is publicly available and

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<sup>25</sup> The relevant statutory language is express that where a person fulfilling the relevant criteria makes an application, that person is entitled to be registered as a British citizen. See e.g., section 1(3) and (4) of the British Nationality Act 1981.

<sup>26</sup> The High Court expressly identified, on the strength of "*a mass of evidence*", the alienating impact of these fees: *PRCBC, O & A v Secretary of State for the Home Department* [2019] EWHC 3536 (Admin).

<sup>27</sup> As explained in fn. 22 and paragraphs 14-15, the error results from failing to distinguish registration from naturalisation, thereby incorrectly treating various people with rights to British citizenship, including many people born in the UK, as if migrants to the UK.

<sup>28</sup> Schedule 8, Immigration and Nationality (Fees) Regulations 2018, SI 2018/330 (20A3.1 of Table 20A; and paragraph 8 respectively)

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not repeated here.<sup>29</sup> There is no value for money in creating excess work and more cost at the Home Office to obstruct or make difficult the securing of British citizenship by a child with a right to that citizenship. The ambition that children should secure citizenship accords with the statutory intention of the British Nationality Act 1981. It is also something the department has expressly decided, as a matter of policy, that it should achieve and has assessed to be necessary for fulfilling statutory and international duties concerning children's best interests.<sup>30</sup>

### (e) Recommendations

- (I) The powers for charging British nationality fees should return to the British Nationality Act 1981.
- (II) No fees for registration of British citizenship should be charged for at above cost-recovery.
- (III) The current waiver of fee for registration as a British citizen where it cannot be afforded should be extended to adults.
- (IV) The exemption of looked-after children from the fee for registration as a British citizen should be extended to young adults who remain supported by a local authority having become looked-after during their childhood.
- (V) Procedural and evidential requirements of fee waiver applications should not be prohibitive and should be significantly reduced. (We have made more specific recommendations concerning this in our submission to the Independent Chief Inspector of Borders and Immigration.)<sup>31</sup>
- (VI) Means-tested State benefits should be identified and specified as 'passporting' for the purpose of fee waiver applications.<sup>32</sup>

June 2025

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<sup>29</sup> The submission is available here: <https://www.amnesty.org.uk/resources/joint-prcbc-and-amnesty-uk-submission-chief-inspector-citizenship-fee-waiver-september>

<sup>30</sup> This is indicated, for example, in the Impact Assessment to regulations that introduced the exemption of looked after children from these fees and the waiver for children who cannot afford these fees: *Child Citizenship Affordability Fee Waiver Impact Assessment*, IA No. H00415, 16 May 2022.

<sup>31</sup> See fn. 29

<sup>32</sup> An example of this is provided in the legal aid system, see e.g., Regulation 6, Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013, SI 2013/480.