



### **Practitioner's note on**

### ***R (Akinyemi) v Secretary of State for the Home Department***

1. On 7-8 July 2026 the Administrative Court will hear the case of *R (Akinyemi) v Secretary of State for the Home Department* AC-2025-LON-000289, during which the approach of the Secretary of State for the Home Department (“SSHD”) to registration as British citizens of United Kingdom-born individuals under ss.1 and 4L British Nationality Act 1981 (“**BNA 1981**”) will be examined.
2. The Claimant was born in the UK on 21 June 1983. He has never left the UK. His older brother, who was born in the UK in 1976, was a Citizen of the UK and Colonies at his birth and automatically became a British citizen at the commencement of the BNA 1981 on 1 January 1983.
3. When the Claimant was 4 years old, his parents were granted indefinite leave to remain (“**ILR**”). From that moment until his attaining the age of majority on 21 June 2001, he was entitled to be registered as a British citizen under s. 1(3) of the BNA 1981 upon making an application. Further, when he was 10 years old, he also became entitled to be registered under s. 1(4) of the BNA 1981 on his making an application. However, his parents did not register him throughout this period as they were unaware that an application was needed (given in particular his older brother’s automatic acquisition of British citizenship).
4. The Claimant received a criminal conviction in August 2000. Thereafter, he was convicted in 2007 of causing death by dangerous driving (following an epileptic fit when driving while disqualified), leading to an eventual sentence of four years’ custody. It was against this background that, on 13 February 2014, the SSHD made a deportation order against him, which he successfully appealed on two occasions in *R (Akinyemi) v SSHD* [2017] EWCA Civ 236; [2017] 1 W.L.R. 3118 and *R (Akinyemi) v SSHD* (No 2) [2019] EWCA Civ 2098; [2020] 1 W.L.R. 1843. He has not offended since August 2018.

5. After the introduction of a good character requirement for registration in 2006, on 27 March 2023 he made an application for registration as a British citizen under s.1(4) or s.4L(1)(c) of the BNA 1981. He contended, *inter alia*, that exceptional circumstances, including his parents' failure to make an application to register him in reliance on his older brother's automatic registration as a citizen, prevented him from becoming a citizen. The SSHD refused this application on 9 January 2024, on the basis that (a) in relation to s.1(4), the Claimant did not satisfy the good character requirement under s.41A BNA 1981, (b) any exceptional circumstances relied upon by the Claimant under s.4L(1)(c) did not "*directly*" prevent him from applying to be registered before the good character requirement was introduced in 2006, and (c) there was no unlawful interference with his Article 8 ECHR rights. The Claimant challenges this decision by way of judicial review.
6. The Claimant relies on 5 grounds:
  - a. Ground 1: the Defendant unlawfully applied an inflexible approach to the question of good character, in particular by failing to take into account the impact the Claimant's disabilities (including circumstances arising out of his epilepsy) had on his offending and fettering her discretion by treating the Claimant's criminal sentences as determinative of the question of character. Moreover, the Defendant failed to distinguish the exercise undertaken on good character in the registration process context from that undertaken in naturalisation cases, when the nature of those separate regimes inevitably means a different approach ought to be taken in each.
  - b. Ground 2: the Defendant's Good Character Guidance is unlawful insofar as it requires the adoption of such an inflexible approach, and in failing to take into account the differing nature of the good character analysis in registration as opposed to naturalisation contexts.
  - c. Ground 3: insofar as the Defendant did take account of material considerations such as the Claimant's disability and other evidence as to his character, she failed to give adequate reasons as to why this did not affect its analysis.

- d. Ground 4: the Defendant misdirected herself and/or acted irrationally in construing/applying the test of causation in s.4L of the BNA 1981, in particular in holding that the Claimant's parents' failure to apply on his behalf did not prevent him from becoming a citizen, and in asking herself whether this was the "*direct*" cause thereof.<sup>1</sup>
- e. Ground 5: the Defendant's decision constitutes an unlawful interference with the Claimant's Article 8 ECHR rights.<sup>2</sup>

7. Morris J granted permission on each Ground at an oral renewal hearing on 4 February 2026. The matter will now proceed to a full hearing.

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<sup>1</sup> The Claimant has made an application to amend his pleaded case to include a Ground 4B, under which he argues that the Defendant's erection of a "*direct*" causal threshold imposes a higher threshold than that found in s.4L, following the analysis in *R (APD) v SSHD* [2025] EWHC 246 (Admin), [2025] 1 W.L.R. 2535 at §60.

<sup>2</sup> The Claimant has made an application to amend his pleaded case to flesh out his argument that, if refusal of his application is necessitated by the imposition of a good character requirement, then that statutory imposition is incompatible with Article 8 ECHR, such that a declaration of incompatibility must be made.