



BRITISH CITIZENSHIP **DISCRETIONARY CITIZENSHIP**

Not all children born in the UK automatically have British citizenship from birth. But lots of children living in the UK are eligible to become British citizens.



BRITISH CITIZENSHIP

Having British citizenship means that the UK is your home, and you have the right to live, work and belong here. It comes with many rights and benefits, including:

- The right to live and work in the UK forever
- The right to hold a British passport
- Free NHS medical care
- Unrestricted entry to the UK and ability to travel abroad
- The right to vote in UK elections and stand for public office

HOW MUCH DOES BRITISH CITIZENSHIP COST?

Most children who must register in order to become British citizens have to pay an application fee of £1,012, even if they were born in the UK or brought to the UK as babies or very young children.

In June 2022, the government introduced a fee waiver policy. Children in care are exempt from the application fee. Other children who cannot afford to pay the fee can apply for a fee waiver.

GET GOOD LEGAL ADVICE!

We strongly advise seeking specialist legal advice to find out if an application for citizenship is likely to succeed.

British nationality law is complex and it is important to submit the right documents to support an application. KIND UK has assisted hundreds of children to apply for British citizenship. 99% of KIND UK cases have been successful.

These are some of the routes to citizenship for children under the British Nationality Act 1981:



ROUTES TO CITIZENSHIP

1. BRITISH AT BIRTH

Children born in the UK **are** automatically British citizens at birth if they have a parent who was British or 'settled' (permanent residence or indefinite leave to remain) in the UK before the child was born.

2. BRITISH BY ENTITLEMENT

Children born in the UK **are not** British citizens at birth **but can become** British citizens if:

- they have lived in the UK for the first 10 years of their life (can apply at any age) or
- one of their parents has acquired British citizenship or 'settled' in the UK (must apply before 18th birthday) or
- if they are and always have been stateless (not considered a citizen of any country) and have lived in the UK for the past 5 years (must apply before 22nd birthday)

There are also continuous residency, good character, and other requirements for some of these categories.

3. BRITISH BY ADOPTION

Children automatically become British citizens if they are formally adopted by a British citizen via an approved adoption procedure.

4. DISCRETIONARY ROUTE

Other children who have a strong connection to the UK may be eligible for British citizenship.



THE DISCRETIONARY ROUTE

The Home Office can grant British citizenship to a child where a child has strong ties to the UK. **The application must be submitted before the child's 18th birthday.**

The criteria for this route are not fixed. The decision should be based on factors in [Home Office guidance](#) and judgments in relevant court cases, including:

- The child has lived in the UK for a significant period. If the child has lived in the UK for 10 years or more and meets other criteria, they should be granted citizenship; if less than 10 years, it depends on other factors.
- British citizenship would be in the child's best interests.
- The child and their parents already have permission to stay in the UK (this is not an absolute requirement but weighs in the child's favour).
- The child's future lies in the UK (especially if in UK less than 10 years).
- The child is of 'good character' (if age 10 or older).
- Both parents consent, or any objections are not reasonable.
- Special circumstances mean that the child should be granted citizenship, e.g. a non-British orphan coming to live with British family members in the UK. These may override other factors in some cases.

KIND UK CASE

ANA

Ana's mum settled in the UK and naturalised as a British citizen. Ana came to live in the UK at age 11. She had indefinite leave to enter, which means there was no time limit on how long she could stay.

Sadly, Ana's mum was not able to take care of her properly, and she was taken into care by a local authority at age 14.

KIND UK began assisting her when Ana was pregnant and living in supported accommodation at age 17.

She had no documents to prove her immigration status. She was not entitled to British citizenship on a statutory basis because she was not born in the UK. But she had lived in the UK for 6 years and had strong ties to the UK, so she could apply for citizenship on a discretionary basis.

Her citizenship application had to be made urgently, because this route would have been lost after her 18th birthday. Her solicitors helped get documents proving her status and helped her apply for British citizenship..

Ana was granted British citizenship.

Name has been changed to protect privacy.



KIND UK CASE

ATU

Atu was born in the UK. His parents were from another country and initially had permission to stay in the UK but later overstayed their visas due to difficult circumstances.

When Atu was young, he went to live with his grandmother in another country for an extended time, which meant that he did not have an entitlement to British citizenship at age 10 because he had lived outside the UK for longer than permitted.

But his solicitors also considered the discretionary route to British citizenship. They advised that it would be best to first apply for permission to stay in the UK for Atu, his brother Ebo, and their mum, Emma, under an Immigration Rule that allows children and their families to stay in the UK if they have lived here for more than 7 years and it is unreasonable to expect them to leave. These applications were successful.

Next, after Atu's brother Ebo was 10 years old, the solicitors helped Ebo apply for British citizenship (on a statutory basis, as he had always lived in the UK). Later, the solicitors helped Atu apply for British citizenship, on a discretionary basis, based on his long residence and strong ties to the UK.

Atu's citizenship application is likely to be granted.

Name has been changed to protect privacy.





THE GOOD CHARACTER REQUIREMENT

Most children and adults applying for British citizenship have to show they are of '*good character*' if they are 10 or older (but not if applying on the grounds of statelessness).

There is no fixed definition of what '*good character*' means, but some criteria are set out in Home Office guidance:

- The Home Office must consider evidence of 'good character' as well as serious bad actions.
- The child's best interests should always be considered as a primary consideration.
- Having committed criminal offenses does not always mean a child won't be eligible for British citizenship – it depends on the type of offense, how long ago committed, and other circumstances.
- The Home Office must consider a child's history and any mitigating circumstances which may mean certain behaviour or offenses should be given more or less importance.
- Violations of immigration laws may affect the assessment of an adult's character; but for children, the Home Office will usually disregard immigration breaches outside the child's control.

For more information on the good character requirement, please see the guide on our resources page [here](#).

NOT ELIGIBLE FOR BRITISH CITIZENSHIP YET?

Some children and young people living in the UK who are not British citizens may need to apply for permission to stay before applying for citizenship.

There are various options, depending on age, how long they have lived in the UK, and other circumstances. These include:

- Permission to stay as a child who has lived in the UK for 7 years, if it would be unreasonable to expect the child to leave the UK
- Permission to stay as a child in care
- Permission to stay as a young person (age 18-24) who has lived in the UK more than half their life.
- There may be other options too! More info [here](#) and [here](#).

PERMISSION TO STAY VS BRITISH CITIZENSHIP

Children can apply for British citizenship as soon as they become eligible.

This may be soon after being granted permission to stay, or it may be when they reach age 10, when they have lived in the UK for several years, when a parent becomes British or settled, or based on some other change of circumstance.

It is not always necessary that a child has permission to stay in the UK before they are eligible for British citizenship. Adults are often eligible to naturalise as British citizens after a year with indefinite leave to remain.



GOING TO UNIVERSITY?

Many young people of migrant backgrounds experience problems when they apply to university and student finance. [We Belong](#), [JustRight Scotland](#), and other organisations have been fighting for these young people to be treated fairly.

Some children may avoid problems relating to student finance and immigration status if they are granted British citizenship before they begin their course.

In England, student finance and ‘home fee’ status is generally restricted to students who are ‘ordinarily resident’ in England and have been ‘ordinarily resident’ in the UK for 3 years. Ordinary residence generally means [lawful residence for a ‘settled purpose’](#) (and not mainly to pursue full-time education).

Most people who have neither British citizenship nor Indefinite Leave to Remain (ILR) or EU Settled Status do not automatically qualify for student finance in England. They must also meet ‘long residence’ requirements set out in the [Education \(Student Support\) Regulations 2011](#) (revised) (para 13): 7 years’ living in the UK if under 18 on the first day of their [academic year](#); or living in the UK half their life (or 20 years) if over 18.

There are some exceptions (for example, refugees, stateless people, and some people from or previously living in certain European countries, and others). Students must double-check their eligibility for home fees and student finance before beginning a course because eligibility cannot be changed after starting.

There are Equal Access scholarships, generally known as Sanctuary Scholarships, for people who cannot access student

finance because of immigration status. People without leave to remain in the UK may or not have a legal right to study at university and should get advice about this.

For more information about eligibility for student finance and scholarships, We Belong has helpful resources [here](#) and the UK Council for International Student Affairs has lots of information [here](#).

In Scotland, the residency requirements relating to student finance were successfully [challenged through litigation](#). A [Scottish court found in September 2022](#) that the rules unlawfully discriminated on the basis of immigration status.

As of March 2023, the Scottish Government had set up a temporary [scheme](#) with new requirements and was undertaking a consultation about the student finance residency requirements.

Children and young people who are having problems with student finance related to their immigration status can [contact We Belong](#) if in England or [JustRight Scotland](#) if in Scotland.



USEFUL RESOURCES/MORE INFORMATION

1. CHECK A CHILD'S IMMIGRATION/CITIZENSHIP STATUS AND FIND A SOLICITOR

Initial information about a child's immigration status or citizenship and how to find a solicitor can be found on KIND UK's Path to Papers website: [Click here](#)

2. KIND UK Resources

See KIND UK's [resources page on our website](#) for more:

- Explaners about British citizenship.
- Summary of routes to citizenship.
- Briefings on various topics relating to children's immigration and citizenship issues.
- Case studies.

3. Project for the Registration of Children as British Citizens guide: [click here](#)



KIND UK (Kids in Need of Defense UK) provides free legal help to children, young people and families as they navigate the UK's immigration and nationality procedures.

In the last year, we partnered with 27 corporate law firms, 3 in-house legal departments and 662 lawyers across the country to ensure the best quality legal advice and representation. In total, we had 781 cases active across the year.

KIND UK is a collaboration between five award-winning, UK based organisations that specialise in children's immigration, asylum, and citizenship law: Central England Law Centre, Coram Children's Legal Centre, Greater Manchester Immigration Aid Unit, JustRight Scotland, and the Migrant and Refugee Children's Legal Unit at Islington Law Centre.

We partner with KIND, a US charity supporting legal representation for children facing deportation proceedings alone.

KIND UK is hosted by Central England Law Centre, a company limited by guarantee. Registered in England and Wales under number 4149673 and registered as a Charity number 1087312 Registered office Oakwood House, St Patricks Road, Coventry CV1 2HL

For information about accessing KIND UK's services visit:

www.kidsinneedofdefense.org.uk/cases-we-take



We Belong is an award winning nationwide migrant youth charity supporting 13–25-year-olds with bases in London and Manchester.

We exist to ensure young migrants living in the UK are treated fairly in the society they call home. We engage communities, education institutions and authority bodies by campaigning and working with and for young migrants to hold those in power to account for wider immigration change.

By delivering our activities in person and digitally, we empower young people through advocacy, training and mobilisation to equip them to challenge and change systemic barriers impacting their lives. We build youth capacity and work with other organisations in the sector to develop young people into leaders and support their mental wellbeing in their journey.

Our aim is to change policies that prevent young migrants from participating in society and enable young migrants to build power.