



BRIEFING FOR MINISTER ON MATTER OF BRITISH PEOPLE BEING SUBJECTED TO DEPORTATION PROCEEDINGS (9 January 2025):

Our Organisations:

1. The Project for the Registration of Children as British Citizens (PRCBC) has particular expertise and experience concerning people born in the UK, or brought to the UK at an early age, who grow up in this country with rights to British citizenship that need and remain to be exercised. Amnesty International UK has sought to support and promote the work of PRCBC.
2. Our two organisations have, for nearly a decade, undertaken joint public and parliamentary work to raise the profile and understanding of rights to British citizenship. This includes the circumstances of people facing or at risk of deportation, who are British by their social and cultural identity, their statutory entitlement to British citizenship, and their having been born, grown up, and completed all their schooling in the UK. Nearly all these people have never lived (in some cases, never even visited) any other country. Such people are, save for the outstanding formality of registration, British people; and Parliament identified them as such when including statutory entitlements to registration among how British people's nationality rights were to be secured.

The overarching problem:

3. The primary concern of our two organisations is the longstanding and widespread failure to protect, promote and respect British nationality law and rights to British citizenship as matters distinct from immigration law. This has particular impact on rights to be registered as a British citizen under the British Nationality Act 1981.
4. Most of these rights to be registered are expressly by statutory entitlement. Treating people with statutory rights to be registered as British citizens as if migrants to the UK was precisely the error at the heart of the Windrush scandal.¹ As with that scandal, the people disproportionately affected are Black and Asian British people. Also like that scandal, the harmful and alienating impact upon these British people arises from immigration policies and strategies that are

¹ This is why the Home Office-commissioned report [*The Historical Roots of the Windrush Scandal*](#), published 26 September 2024 identifies the British Nationality Act 1981 as both “*the beginning and the end of the story*” of those roots (p46). The injustice done to people affected by the Windrush scandal included that their right to be registered as British citizens was time-limited as a means, it was said (*Hansard*, HL, 21 July 1981 : Col 173-4 *per* Lord Belstead, Home Office Minister) to encourage them to exercise it, but the Home Office subsequently disseminated information telling people that there was no need for them to do anything after all. The time passed, they lost their right, and later they became treated as migrants in their home country.

wrongly applied to them because successive administrations and Parliaments “lost sight” of them, their British connection, and their citizenship rights.²

5. **As explained below, the introduction from December 2006 of a “good character” requirement for some British people to have their citizenship formally registered is one particularly harmful outcome of the failure described in the previous paragraph.**

Deportation powers and the “good character” requirement:

6. Unsurprisingly, rights to British nationality and powers of deportation are rarely discussed or considered together. Since the end of convict ships and transportation in the nineteenth century, there has been an at least tacit understanding that deporting British people from their own country is wrong. Developments in legislation concerning British citizenship and legislation concerning deportation have proceeded separately. However, by accident or error, this has resulted in British people becoming caught within the scope of deportation powers because their right to British citizenship remains to be exercised. This is explained in the following paragraphs.

Development of deportation powers

7. Home Office deportation powers are established under the Immigration Act 1971. However, the UK Borders Act 2007 and the Immigration Act 2014 have radically changed the impact and operation of these powers, together with the several changes to Part 13 of the immigration rules made since 2006. In doing so, these two Acts each created a definition of “foreign criminal”, which ignores statutory entitlements to be registered as a British citizen.³ Thus, unless someone is already formally recognised as possessing British citizenship, that person is treated as a foreign criminal if sentenced for a term of 12 months or longer imprisonment.

British people and statutory entitlements to British citizenship from childhood

8. All people who are born in the UK and have never left the UK are either British citizens or entitled to that citizenship at least from their attaining the age of ten.⁴ However, many have not exercised their right to be registered as a British citizen (as was the case for Windrush scandal victims) – often because they, their parents or carers (including local authorities) have not known that, having been born in the UK, they did not already possess the citizenship to which they are entitled.
9. The introduction in December 2006 of a statutory requirement of good character for registration of a young person or adult (i.e., someone aged 10 or older) has exacerbated the injustice done by failure to ensure widespread public and official

²Amber Rudd, Home Secretary, first referred to having ‘lost sight of people’ in connection with the Windrush scandal on 16 April 2018: see [Hansard HC, 16 April 2018 : Col 28](#).

³ Section 32(1), UK Borders Act 2007 and section 117D(2), Nationality, Immigration and Asylum Act 2002 (as inserted by section 19, Immigration Act 2015).

⁴ Section 1(4), British Nationality Act 1981

awareness of the need and right to be registered as a British citizen.⁵ When that requirement was first introduced, ministers expressly and wrongly understood it to be upon “*people coming to the UK*” and for purposes of immigration policy.⁶

10. It is clear from the parliamentary record that neither ministers nor Parliament recognised they were introducing a requirement for British people – people born in and connected to the UK – whose right to British citizenship remains to be exercised. They overlooked that Parliament, when creating British citizenship, had identified these people as British by being equally connected to the UK as their many peers who acquire their citizenship at birth. It provided them rights to be registered as a British citizen expressly to mitigate the impact of ceasing to recognise citizenship automatically solely on the basis of birth in the UK.⁷ The purpose was not to exclude children born and growing up in the UK, identifying as British, from this country’s citizenship. Rather, it was to distinguish children who did not grow up here because their parents returned to other countries.⁸

Who is affected and how:

11. The extent of the injustices that continue to arise is emphasised by the age of some of the people PRCBC has come to represent over the years.
12. These people include adults in their 20s, 30s and even 40s, who were born in the UK and have lived here their entire lives. Many people have never even left the UK for a day trip abroad. They are British people, who could and would have been registered as British citizens during their childhood if parents, carers (including local authorities), or they themselves had known that was needed.
13. A high proportion of these adults are Black British men, and many have experience of the care and mental health systems, also of family separation, abuse, neglect, trauma, and poverty. The marginalisation they suffer on discovering they are not treated as British because they needed to be registered as British citizens when they were children is profound and seriously exacerbates the barriers they face to rehabilitation and social integration.
14. In some instances, this includes facing deportation proceedings, which lead to extended periods in prison or in immigration detention and being prohibited from working, studying, or receiving any public funds to maintain or house themselves

⁵ The requirement is found in section 41A(1), British Nationality Act 1981 (as introduced by the Borders, Citizenship and Immigration Act 2009); but was first introduced by section 58, Immigration, Asylum and Nationality Act 2006.

⁶ See, e.g., the short [joint submission of PRCBC and Amnesty UK](#) to the Joint Committee on Human Rights of 6 June 2019 in connection with the Committee’s remedial order inquiry relating to the good character requirement. See also Chapter 3 of the Committee’s Twentieth Report of Session 2017-2019, *Good Character Requirements: Draft British Nationality Act 1981 (Remedial) Order 2019 - Second Report*, HC 1943, HL Paper 397, July 2019 on this same matter.

⁷ Ending *jus soli* in British nationality law was done by the British Nationality Act 1981.

⁸ See the *Hansard* record presented and analysed in PRCBC’s [Commentary on Parliament’s intention in introducing provisions for children in the British Nationality Act 1981](#), August 2018.

on their release. This is despite the UK being the country in which they were born, have always lived, and have statutory entitlement to citizenship.

15. At its worst, the impact of this is not merely to immediately deprive a person of the citizenship to which they are entitled. It can create conditions in which it is extremely difficult for that person to achieve the rehabilitation and social integration that might ever be accepted by the Home Office as satisfying the requirement of good character. They can never break the circle of exclusion – being treated as not of good character and not being permitted to move on with their lives in ways that could demonstrate any change. This is contrary to underlying aims and purposes of each of British citizenship, public policy concerning justice and rehabilitation, and the international obligation to promote rehabilitation and social integration of, in particular, child offenders.⁹
16. In summary, the good character requirement that applies to registration deprives British people of their citizenship.¹⁰ It differs from the power to strip a person of British citizenship in two ways. First, it deprives the person of the citizenship that is theirs by right before they can formally acquire it. Second, it deprives people on grounds of conduct or association of far lesser seriousness than would ever be suggested could justify exercise of the power to strip someone of citizenship.

Recommendations:

17. **Our primary recommendation is for the repeal of section 41A of the British Nationality Act 1981. This would secure the underlying purpose of creating British citizenship under that Act.** The British people identified as connected to the UK and therefore with rights to British citizenship have since been wrongly divided between those who must satisfy a character requirement and those whose character is irrelevant to their nationality rights. In this way, inequality has been introduced at the heart of British citizenship. Repeal of the requirement is necessary to fully restore British citizenship on an equal basis.
18. **The following secondary recommendations are intended to mitigate current injustice:**
 - (1) Deportation legislation should be amended to ensure that people with statutory entitlements to British citizenship are not treated as “foreign criminals”.
 - (2) The Home Office must revise its policy guidance and application of the good character requirement that applies to registration of British citizenship. That revision should clearly distinguish registration from naturalisation to ensure British people are not barred from their right to British citizenship on the same

⁹ Article 40, 1989 UN Convention on the Rights of the Child

¹⁰ The requirement must be distinguished from the requirement of good character that has always applied to the question of whether the Home Secretary may naturalise an adult migrant who first moved to the UK and has later been permitted to settle here.

or any similar basis to the character requirement that bars the naturalisation of an adult migrant to the UK.

- (3) The Home Office must also revise its policy guidance and application of the good character requirement to give effect and recognition to the following:
- (a) the international obligation to promote and enable the rehabilitation and social integration of child offenders (Article 40, 1989 UN Convention on the Rights of the Child);
 - (b) the criminal, including youth, justice system's aims and purposes concerning rehabilitation and social integration of offenders;
 - (c) understanding of medical science, public policy and the criminal justice system that personal development (neurological, psychological and emotional) up to age 25 demands especial recognition with character and propensity to offend subject to rapid change (which should be encouraged, not discouraged by alienating someone by the denial of their citizenship);
 - (d) fixed tariffs that bar British people from their citizenship for periods of years, even permanently, are in principle improper;
 - (e) mental illness, which may cause or contribute to offending, must be distinguished from character (including in accordance with equalities legislation on British people living with disability);
 - (f) the denial of British people's citizenship rights by the good character requirement has an improper discriminatory impact on grounds of race because the people in need of registration and caught by the requirement are disproportionately Black or Asian British people; and
 - (g) denial of citizenship must not be – whether intentionally or inadvertently – an additional sanction for any offence a British person has committed.

Case study examples:

19. Subject to their consent, PRCBC would be pleased to introduce the Minister to British people excluded from citizenship by the good character requirement on registration. The following are anonymised summaries of current or past PRCBC clients:

- **R was born in the UK and has lived here his entire life.** He is a 41 years old, Black man. He was first entitled to be registered as a British citizen at the age of four when his parents became settled in the UK. He also acquired an entitlement to be registered as a British citizen at age ten, which entitlement continues. Nobody understood or acted to secure his citizenship during his childhood. He never knew he was not regarded as a citizen until the Home Office began deportation proceedings against him. He remains excluded from citizenship by reason of the good character requirement. The bar to recognising him as a citizen of the country to which he plainly belongs and identifies with undermines his continued efforts at rehabilitation (though he has no offence on his record since 2018).

- **M was born in the UK and has lived here his entire life.** He is a 40 years old, Black man. He was first entitled to be registered as a British citizen when he was ten. Nobody understood this or acted to secure his citizenship during his childhood. He has spent much of his life in care and then in mental health institutions. Initially, attempts to secure his registration were refused on grounds of good character, though after much time, effort, and cost, he has finally been registered as a British citizen.
- **O was born in the UK and has lived here his entire life.** He is a 32 years old, Black man. He was first entitled to be registered as a British citizen when he was ten. Nobody understood or acted to secure his citizenship. He never knew he was not regarded as a citizen until after his release from a prison sentence. Even after long years of working with marginalised communities to help young Black men avoid criminal actions and associations, and being commissioned by his local police force to assist in their community relations and train new recruits, he was refused on grounds of good character. Again, much time, effort, and cost were needed before he was finally registered as a British citizen.
- **S was born in the UK and has lived here her entire life.** She is a 30 years old, Black woman. She was first entitled to be registered as a British citizen when she was ten. She spent considerable time in care, but nobody acted to secure her citizenship. As a teenager she was convicted for offences of shoplifting. Years later, she was refused registration on grounds of her character. This was despite dozens of individual references attesting to her personal qualities including hard work, trustworthiness, and compassion. Again, much time, effort, and cost were needed before she was finally registered as a British citizen.
- **T was born in the UK and has lived here his entire life.** He is a 30 years old, Black man. He was first entitled to be registered as a British citizen when he was ten. Nobody understood or acted to secure his citizenship. He never knew he was not regarded as a citizen until the Home Office began deportation proceedings against him. He endured two extended periods in prison and an immigration removal centre. On his release, he was put on immigration bail with no permission to work, study or access public funds. Years later, he remained entirely dependent on other people for places to live, food to eat, and any and every other aspect of ordinary life that requires money. This despite no offending since his release from prison. He was still refused registration.
- **D was born in the UK and has lived here his entire life.** He is a 22 years old, Black man. He was first entitled to be registered as a British citizen when he was ten. Nobody understood or acted to secure his citizenship. He never knew he was not regarded as a citizen until an older teenager. He has been known to social services since he was a baby, and experienced significant neglect and abuse during his childhood. He has grown up with mild learning difficulties and has engaged in relatively petty crime (with non-custodial sentences). Yet he remains excluded from his citizenship on grounds of good character.