

# LIRA'S IMMIGRATION CORNER

**B**RITISH CITIZENSHIP is all too often referred to as “automatic”, but this is not the case for some, even if born in the UK. By contrast, others are not aware that they are in fact entitled or can acquire British citizenship.



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## British Citizenship

### Born British

#### Born in the UK to British parents

If, at the time of your birth, one of your parents was British or an Irish citizen living in the UK you will be British by default. You can therefore acquire a British passport without doing anything else.

#### Born in the UK, after 31 December 1982, and parents have settled status but were not British

If, at the time of your birth in the UK, one of your parents had settlement status in the UK you will again have British citizenship by default. Commonly, your parents have settled status if they have Indefinite leave to remain or Settled status under the EU Settlement scheme.

#### Born, outside the UK, when one of your parents was a British citizen or ‘settled’ in the UK

Confusion and difficulties often arise when you were **not** born in the UK but have British connection. In this case, the starting point is when you were born.

Born on or after 1 July 2006 – You will automatically be a British citizen if you were born outside the UK and all of the following apply:

- You were born on or after 1 July 2006
- Your mother or father was a British citizen when you were born.
- Your British parent could pass their citizenship onto you (see

British citizens by descent below).

Born between 1983 and June 2006 – You will automatically be a British citizen if you were born outside the UK and all of the following apply:

- Born between 1<sup>st</sup> Jan 1983 and 30<sup>th</sup> June 2006
- Mother or father was a British citizen when you were born (they must have been married if your father has British citizenship, but your mother did not)
- Your British parent could pass on their citizenship to you (see British citizens by descent below).

Born before 1983 – You will automatically be a British citizen if you were born outside the UK and all of the following apply:

- Born before 1 January 1983
- Your father is British. Your mother’s British citizenship will not normally suffice as applicants born during this time derive their citizenship via their father.
- Your father was married to your mother at the time of your birth.
- Your father is able to pass his citizenship to you (see British citizens by descent below).
- It is noteworthy that your British parent will only be able to pass on their citizenship to you if they are British by “otherwise than by descent”

*The law makes a basic distinction between British citizens “by descent”, who generally speaking cannot pass on their citizenship to children born outside the United Kingdom and British citizens “otherwise than by descent”, who can. It is **not** possible for people holding British citizenship by descent to “upgrade” their status to British citizenship otherwise than by descent.*

*Under current legislation, British citizenship can normally be passed on through one generation to children born abroad. Such children are British citizens by descent and are generally unable to transmit their citizenship to subsequent generations born abroad. (Source: Guide NS)*

The above means that if your British parent was born abroad and acquired their British citizenship through their own parent(s), they will not be able to pass on their citizenship to you as they are British “by descent”. Put another way, your parent has used up the generation card so you (the next generation) will not benefit from it.

If you are not entitled to British citizenship automatically, you may still be able to acquire citizenship by applying for it.

### Acquisition of British citizenship

For most, acquiring British citizenship is done after obtaining Indefinite leave to remain in the UK. In some instances, you may be able

to apply for British citizenship without first obtaining Indefinite leave to remain. It is important not to confuse the two processes as they are quite distinct, and their conditions are also very different. I have set out some of the possible scenarios below.

#### Born in the UK to parents who later obtained settled status or British citizenship

If you were born in the UK and at the time of your birth neither of your parent was a British citizen or settled and:

- while under the age of 18 either of your parents has since become a British citizen or settled in the UK and,
- you are still under the age of 18 on the date your application is received by the Home Office and,
- you are of good character if over the age of 10

You may apply for registration as a British citizen if you satisfy all the above conditions. Once registered you may then apply for a British passport.

#### Born in the UK to parents who have limited leave or are overstayers

If you were born in the UK and at the time of your birth neither of your parent was a British citizen or settled and:

- you are aged 10 years or over on the date of the application
- you have lived in the UK for the first 10 years of your life
- you have not been outside of the UK for more than 90 days in each of the first 10 years of your life
- the Secretary of State is satisfied that you are of good character

If you satisfy the above conditions, you may still acquire British citizenship even if your parents have limited leave or no leave at all (overstayers) in the UK. As before, once registered you may apply for a British passport.

### Process and Fees

If you are already British by default, you may pursue your application for a British passport by submitting your application online or by post. The current fee is £49.00.

You will be required to provide various documents to prove that you are indeed British such as your birth certificate.

If you are not automatically British but can obtain citizenship you will need to apply for “registration” to acquire your citizenship. In this case, you must first submit your application for registration (Form MN1), with supporting documents such as your parent’s passport details or naturalisation certificates. The current fee is £1012. Once you receive your certificate of registration you may then proceed with your British passport application in the usual way.

### Beware

If you are a parent applying for your child’s registration as a British citizen and you do not have leave to remain in the UK (visa) you should first seek legal advice as your child’s acquisition of British citizenship does not automatically entitle you to a visa. This was affirmed by the recent case of NA Bangladesh (2021).

If you are submitting documents in a foreign language, you should have these officially translated and submit the document’s official translation with your application.

If there are discrepancies in your documents such as misspellings of names, you should address these and consider whether you should submit a change of name deed formalising any change(s) in names.

There are other means of acquiring British citizenship such as the “UK Ancestry visa”. ■

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