

Border Security, Asylum and Immigration Bill

House of Lords, Committee Stage

Briefing on “Good character requirement for citizenship” Amendment

1. While Clauses 38 and 39 of the Border Security, Asylum and Immigration Bill repeal the ban on British citizenship contained in the Illegal Migration Act 2023, this ban is perpetuated in practice through guidance issued by the Secretary of State. The “Good character requirement for citizenship” amendment, tabled by the Bishop of Chelmsford with support across the House from Baroness Lister of Burtersett, Lord German and Lord Kerr of Kinlochard, mitigates the most damaging impacts of this recent change.
2. Under the British Nationality Act 1981, the Secretary of State must be satisfied that individuals over the age of 10, applying to naturalise or register as British nationals, are of good character.¹ The requirement is not elaborated in statute, but it is in guidance.
3. On the day of Second Reading of this Bill in the House of Commons, the Home Office published significant changes to the [Good character requirement guidance](#) for British nationality applications. The updated policy states that, from 10 February 2025, individuals applying for citizenship who arrived by dangerous journey or entered the UK irregularly will normally be refused British citizenship — regardless of the time that has elapsed since their entry or arrival. The guidance contains no clear carve out for refugees, stateless persons, victims of trafficking, or children, and it applies retrospectively to people who entered/arrived before the change was introduced.

“I faced horrible and unbearable violence in my home country, and I had no choice but to leave at any cost with my young children, ages 5 and 11. The journey was extremely dangerous, and death accompanied us along the way. We took the risk to survive in a situation where our home [had] become a place of death...”

Over the years, we have integrated into the community and found happiness. Our children have grown here, studying hard and feeling like citizens of this country.... These guidelines have classified us as second-class members of society, conflicting with the values of cohesion and unity that we strive for. This conflict has caused psychological distress and triggered painful memories from our past in my home country.

... We haven’t done anything wrong; we shouldn’t be punished for taking the only option we had left when other legal ways to surviv[e] just weren’t available”.

Gulan, who escaped torture in Iraq

¹ See section 41A, section 4L, and paragraphs 1 and 5 of Schedule 1 to the British Nationality Act 1981.

4. This Guidance may result in the breaches of international law, by:

- i. penalising refugees and stateless persons and failing to facilitate their assimilation and naturalisation, contrary to the 1951 Refugee Convention and 1954 UN Convention relating to the Status of Stateless Persons;
- ii. discriminating without objective and reasonable justification; and
- iii. failing to uphold the best interests of children and their right to acquire nationality, contrary to the UN Convention on the Rights of the Child.²

"If I spend my whole life here, I will remain a refugee — a second-class or even third-class citizen. It feels like they can just deport me. I've started worrying again."

Mohanad claimed asylum in the UK and, while awaiting a decision, began volunteering with the Refugee Council. After being granted refugee status, he continued his studies and started looking for work.

Mohanad, a refugee from Sudan

5. This exclusion from British citizenship inhibits inclusion and belonging in our communities and society, resulting in indefinite denial of:

- i. the right to vote and stand for election, if an individual is not a Commonwealth or Irish citizen;
- ii. the right of abode in the United Kingdom, i.e. to be 'free to live in, and to come and go into and from, the United Kingdom without let or hindrance';³
- iii. freedom from detention and deportation;
- iv. travel benefits and consular services that British citizenship brings; and
- v. the ability to work for the Civil Service, if not otherwise eligible.⁴

6. It may result in permanent citizenship limbo for refugees who have settled and permanently live here, but who cannot obtain a passport from their country of origin or easily travel with a Convention Travel Document to see their family in neighbouring countries.

² See, ILPA, ['Letter to Home Secretary Re: Updated Good Character Guidance'](#) (26 February 2025); UNHCR, ['Updated Observations on the Border Security, Asylum and Immigration Bill, as amended'](#) (23 May 2025) 14.

³ Immigration Act 1971, s 1(1).

⁴ See, [Cabinet Office, 'Civil Service Nationality Rules'](#) (August 2023).

7. Refugee Council estimates that at least 71,000 refugees who have already been granted status could be affected by these changes. While the Government has said that individuals can test and see whether discretion will be exercised in their favour, most people cannot afford to risk thousands of pounds sterling, in the hope that the Secretary of State will exceptionally grant them citizenship or in the hope that they may be successful in challenging a refusal.

“When I heard the news, it was like being hit with a bucket of cold water... Now I feel like no matter how hard I try; I’m never really going to be part of this society — it’s like I’ll always be an outsider who’s been added on but doesn’t truly belong. I also feel this constant sense of insecurity, like at any moment my status could be compromised.”

Farzad, a refugee from Iran, and colleague of the Refugee Council

8. Despite numerous calls for the Government to reconsider this change to its guidance, it remains in place. Therefore, this amendment does three simple things:
- i. **First, it ensures the good character requirement is not applied in a manner contrary to the UK’s international legal obligations.** This amendment, thus, upholds the rule of law and the international rules based order. In her [response](#) to ILPA’s letter, Dame Angela Eagle said, ‘the Secretary of State *may choose to apply discretion to grant citizenship* on an exceptional basis where there are particularly exceptional, compelling or mitigating circumstances, and *where necessary to comply with our international obligations*’. This amendment turns this “may” into a “must”. This is a moderate safeguard. Even Clause 35 of the Illegal Migration Bill, as [introduced](#), disapplied the citizenship ban if necessary to comply with the UK’s obligations under— ‘(a) *the Human Rights Convention, or (b) another international agreement to which the United Kingdom is a party.*’
 - ii. **Second, it upholds the best interests of children, by prohibiting consideration of a child’s irregular entry or arrival.** While the Home Office has retained its standard discretion provision – that it will “normally be appropriate” to disregard immigration breaches if it is accepted this was outside of a child’s control⁵ – the guidance contains no guarantee that children *will* have their irregular entry or arrival disregarded, even if it was no fault of their own. This seems at clear odds with the best interests of children. As Lady Hale held in the Supreme Court:

⁵ See, [Home Office, Good character requirement guidance](#) (11 February 2025), page 49 under ‘Discretion relating to children’.

‘It would be wrong in principle to devalue what was in their best interests by something for which they could in no way be held to be responsible.’⁶

- iii. **Third, it removes retrospectivity, to further uphold the rule of law.** An adult’s irregular entry or arrival may only be taken into account, to the extent specified in guidance that was published when they entered or arrived in the UK. Previously, the guidance permitted a person to acquire citizenship, so long as ten years had passed since their irregular entry.⁷ At present, the guidance applies to someone, whether they arrived two months or two decades ago. It cannot serve as a deterrent to people who are already here; it only serves as a penalty and a scarlet letter.

THE LORD BISHOP OF CHELMSFORD
BARONESS LISTER OF BURTERSETT
LORD GERMAN
LORD KERR OF KINLOCHARD

After Clause 48, insert the following Clause—

“Good character requirement for citizenship

(1) Part 5 of the British Nationality Act 1981 is amended as follows.

(2) After section 41A, insert—

“41B Good Character Requirement

(1) The good character requirement must not be applied in a manner contrary to the United Kingdom’s obligations under international law relating to immigration and asylum.

(2) When considering whether a person (P) meets the good character requirement, the Secretary of State may not take into account P’s illegal entry to or arrival in the United Kingdom—

(a) if P was under the age of 18 at the time of such entry or arrival, and

(b) except to the extent specified in guidance on the good character requirement published at the time of such entry or arrival.

⁶ *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4, §44.

⁷ See, ILPA, [‘ILPA’s letter to Chair of the Home Affairs Select Committee’](#) (1 April 2025), outlining the prior policy.

(3) In this section "the good character requirement" refers to the provision regarding a person being of good character in section 41A (Registration: requirement to be of good character), section 4L (Acquisition by registration: special circumstances), and paragraphs 1 and 5 of Schedule 1 to the British Nationality Act 1981."

Member's explanatory statement

This new clause would ensure the good character requirement is not applied contrary to the UK's international legal obligations. It also ensures that an assessment of good character may not take into account a person's irregular entry or arrival to the UK if they were a child, and it may only be taken into account to the extent specified in guidance published at the time of an adult's irregular entry or arrival.

9. This is a joint briefing from the Immigration Law Practitioners' Association (ILPA) and Together With Refugees.

If you have questions, please contact:

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This amendment and briefing is supported by:

1. Ashley Community & Housing Ltd (ACH)
2. Angels of Freedom CIC
3. Anti Trafficking and Labour Exploitation Unit (ATLEU)
4. ART REFUGE
5. ASSIST Sheffield
6. Asylum Aid
7. Asylum Matters
8. Anti Trafficking and Labour Exploitation Unit (ATLEU)
9. BARAC UK
10. Bath Welcomes Refugees
11. Beyond Detention
12. Birmingham City of Sanctuary
13. Birmingham Community Hosting Network
14. Birmingham Schools of Sanctuary
15. Boaz Trust
16. Bradford City of Sanctuary
17. Breaking Barriers
18. Bristol and Bath Freedom from Torture Local Supporters' Group
19. Bristol City of Sanctuary
20. Bristol Defend Asylum Seekers Campaign
21. Calderdale Valley of Sanctuary
22. Cambridge Refugee Resettlement Campaign (CRRG)
23. Care4Calais
24. Caritas Salford
25. Caritas Social Action Network (CSAN)
26. Cartoons Not Cruelty
27. Chartered Institute of Housing
28. Citizens UK
29. City of Sanctuary UK
30. Convoy Refugee Action Group (CamCRAG)
31. Coram Children's Legal Centre
32. Darlington Assistance for Refugees DAR
33. Daughters of Charity Services
34. Detention Action
35. ECPAT UK
36. Edinburgh Coalition Against Poverty
37. Elmbridge CAN
38. European Network on Statelessness
39. Fences & Frontiers
40. Filton Avenue Nursery School, a School of Sanctuary
41. Freedom From Torture
42. Greater Manchester Immigration Aid Unit
43. Hay, Hrecon and Talgarth Sanctuary for Refugees
44. Helen Bamber Foundation
45. HIAS+JCORE
46. Hope for the Young
47. Hope Projects
48. Humans for Rights Network
49. Ice and Fire Theatre Company
50. IMIX
51. Immigration Law Practitioners' Association (ILPA)
52. Indoamerican Refugee and Migrant Organisation (IRMO)
53. Jesuit Refugee Service UK
54. Journey LGBT Asylum Group
55. JustRight Scotland
56. Kaleidoscope
57. Kosovar Albanian Youth Against Violence (KAYAV)
58. Law Centre NI
59. Leeds Asylum Seekers' Support Network
60. London Churches Refugee Fund & Network
61. Manchester Amnesty International Group
62. Medact
63. Mid-Wales Refugee Action
64. Migrant Voice

65. Milestone Global Resources Ltd
66. Music Action International
67. Negotiating Queer Identities
Following Forced Migration
68. One Strong Voice
69. Praxis
70. Preston City of Sanctuary
71. RAMFEL
72. Refugee Action
73. Refugee and Migrant Centre
74. Refugee Council
75. Refugee Futures
76. Refugee Support Group
77. Refugees at Home
78. RefYouMe
79. René Cassin
80. Restore – a project of Birmingham
Churches Together
81. Rethink Rebuild Society
82. Rochdale Action With Destitute
Asylum Seekers And Refugees
83. Routes Collective
84. Safe Passage International
85. Say It Loud Club
86. Scottish Refugee Council
87. Sexual Orientation and Gender
Identity Claims of Asylum
88. Social Workers Without Borders
89. SolidariTee
90. Southampton Action
91. St Nicholas of Tolentino Roman
Catholic Church
92. Stories of Hope and Home
93. Student Action for Refugees (STAR)
94. Suffolk Refugee Support
95. Sunrise Diversity
96. Syrian British Consortium
97. The Coalition of Latin Americans in
the UK
98. The Separated Child Foundation
99. The William Gomes Podcast
100. the3million
101. Together with Migrant Children
102. Together With Refugees
103. United Nations Association-UK,
London & SE Region
104. Waltham Forest Migrant Action
105. Welcome Group Halesowen
106. Wesley Gryk Solicitors LLP
107. West London Welcome
108. Women for Refugee Women
109. Women's Budget Group
110. Young Roots