

## Updated Frequently Asked Questions (FAQs) on the *PRCBC judicial review* decision on Home Office fee for children to register as British citizens

These FAQs replace the previous version dated December 2019, March 2020, June 2020 and provide an update following the decision of the High Court on 19 December 2019 in the case of *PRCBC, A & O v Secretary of State for the Home Department* [2019] EWHC 3536 (Admin). The information provided here is limited. The case is ongoing. When it is finally decided, it will be possible to consider its wider implications.

### 1) Who and what is the PRCBC & Ors case about?

The case was brought by *Project for the Registration of Children as British Citizens* (PRCBC) and two children, O and A, to challenge the current fee of £1,012 for each child as unlawfully high.

The case is about children with rights to register as British citizens under the British Nationality Act 1981; and the fee charged by the Home Office for them to register.

More information about children's rights to register is available from [information leaflets](#) on PRCBC website.

### 2) What did the PRCBC & Ors case decide?

PRCBC and the two children made two main legal arguments:

1. The law does not allow such a high fee.
2. The Home Office acted unlawfully in setting the fee because it did not consider the best interests of the children affected.

In December, the High Court rejected the first argument. It ruled that the [Court of Appeal](#) had previously decided this issue in favour of the Home Office.

But the High Court accepted the second argument. It ruled that the fee of £1,012 charged to children to register as British citizens is unlawful because it has been set by the Home Office without any consideration of the best interests of the children affected.

### 3) What is happening with the case now?

The High Court's decision means that the Home Office should reconsider the level of the fee for children to register as British citizens.

However, the High Court granted the Home Office permission to appeal to the Court of Appeal against its ruling on the second argument. The Home Office has since appealed to the Court of Appeal.

The High Court allowed PRCBC & Ors to apply to appeal its ruling on the first argument direct to the Supreme Court. This is unusual. It is known as a 'leapfrog' because it would allow PRCBC & Ors to 'leapfrog' over the Court of Appeal. However, on 10 March 2020, the Supreme Court refused permission to do so. It decided that the appeal of PRCBC & Ors on the first argument should be left

to the Court of Appeal. PRCBC & Ors has since applied for permission to appeal to the Court of Appeal and that court granted permission on 12 June 2020.

The case will be heard by the Court of Appeal on 6-7 October 2020. That court will consider the two main legal arguments (see Question 2 above) decided by the High Court.

**4) What can the Court of Appeal decide?**

The Court of Appeal may:

- agree with the High Court judge;
- accept PRCBC & Ors first argument; or
- agree with the Home Office and dismiss the case of PRCBC & Ors.

**5) How long will the next court stage take?**

The Court of Appeal will hear the case on 6-7 October 2020 with judgment delivered within months. For future updates, please visit PRCBC's website [here](#)

**6) I want to register my child as a British citizen. What is the Home Office fee now?**

At this time, the fee remains at £1,012. The Home Office has maintained the fee at this same level and is appealing to the Court of Appeal against the decision of the High Court.

**7) Does every child applying to register have to pay the fee?**

No.

Children do not have to pay the fee if they would have been born a British citizen had their father been married to their mother at the time of their birth; and their birth was before 1 July 2006. See, for example, Mateo's circumstances in [this comic](#) and the general section of the [information leaflets](#) on PRCBC website.

From 6 April 2020, the Home Office has also had power to waive the fee for a child born on or after 1 July 2006 who was not born a British citizen because their mother was married to someone other than their father.<sup>1</sup>

**8) I am a local authority with a child in my care. Do I have to pay the fee for the child to register as a British citizen?**

Yes, unless the exception mentioned above (question 7) applies to you.

**9) I have already registered my child as a British citizen and paid the fee. Will the case of PRCBC & Ors mean I can get reimbursed?**

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<sup>1</sup> For this purpose, it has also made available a non-mandatory form UKF (M): <https://www.gov.uk/government/publications/form-ukf-m-guidance>

The case of PRCBC & Ors is only about the level of fees. It is not a judicial review about reimbursement. So far, the Home Office has not reduced the fee, let alone agreed to make reimbursements.

**10) Should I now wait to apply for my child to be registered as a British citizen?**

You should get legal advice from a specialist in British citizenship law on your child's individual circumstances. However, it is important for any child with a right to register as a British citizen to register as promptly as possible.

**11) Does the PRCBC & Ors case apply to the fee for adults to register as British citizens?**

No. However, if the appeal of PRCBC & Ors to the Court of Appeal is successful and there is no appeal to the Supreme Court, this could have some implication for the fee for adult registration.

**12) Does the PRCBC case apply to the fee for adults to naturalise as British citizens?**

No.

**13) What is the difference between registration and naturalisation?**

Naturalisation is only for adult migrants in the UK applying to become British citizens.

Registration is the process for all children applying for British citizenship. It is also the process for adults who have a right to register as British citizens.

More on this distinction is available from [PRCBC's note](#) about the case.

**14) Does the PRCBC & Ors case apply to Home Office immigration fees?**

No. Immigration is a separate area of law. More on the distinction between nationality law and immigration law is available from [PRCBC's note](#) about the case.

**15) Can I make a donation towards PRCBC's *pro bono* work for destitute children?**

Yes. We would be grateful for any support you can give us. You can [donate here](#).

**16) Is there any other way I can support PRCBC and children's rights to British citizenship?**

Yes, please:

- Help raise awareness by circulating PRCBC's [information leaflets](#).
- Add your name to the [petition on the fee](#) and encourage others to do so too.
- Ask your Member of Parliament (MP) to support this work and the petition. For example, you can use [this template letter](#).

These FAQs have been written by [Solange Valdez-Symonds](#) (PRCBC director and solicitor) and [Steve Valdez-Symonds](#) (PRCBC legal research volunteer).

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