

Chapter 34 annex A

The language requirement

1. Introduction

1.1 Applicants for naturalisation under **s.18(1)** and, from 28 July 2004, **s.18(2)** of the British Nationality Act 1981 are required to have sufficient knowledge of either the English language or any other language recognised for official purposes in the relevant territory. The 1981 Act does not define what is a "sufficient knowledge", nor does it specify how that knowledge has to be expressed (i.e. whether the applicant has to be able to read, write or speak the language).

1.2 For practical purposes, an adequate level of language ability may be assumed unless there is information to hand which suggests that this may not be so (e.g. applicants who have not filled out the form themselves or who have made their mark instead of signing the application). In such cases, enquiries should be made (see Annex B) and the referees asked whether applicants can speak and understand the relevant language to a level where they can:

- make simple conversation about themselves and their family and way of life
- communicate sufficiently to deal with everyday situations such as travelling, shopping, visiting the doctor's surgery or a child's school, and conducting dealings with officials. The section in the Referee's notes, which describes this standard, should be underlined

1.3 The police should not be asked to conduct interviews merely to resolve doubts about whether applicants meet the language requirement.

2. The exercise of discretion to waive the language requirement

2.1 There is discretion in **paragraph 6(e) of Schedule 1** to the British Nationality Act 1981 to waive the language requirement if, because of age or physical or mental condition, it would be unreasonable to expect the applicant to fulfil it (see paragraph 2 below).

2.2 The circumstances in which the language requirement may be waived are as follows:

Age - We would normally expect to waive the language requirement where the applicant is aged 65 or over, and should be ready to consider evidence that there are compelling grounds for exercising it at a lesser age. An example might be an applicant who is approaching 65 and has adopted a way of life sometimes associated with old age - spending the majority of time in the house and not mixing with society at large - which would restrict the opportunities to learn the relevant language. It is important that each case should be examined carefully on its own merits and that we are seen to be acting reasonably.

Physical condition - Discretion should normally be exercised where the applicant is:

- i. suffering from a long term illness or disability which severely restricts mobility and, hence, the ability to attend classes in the relevant language or practice this language in the community; or
- ii. deaf, mute or suffers from any speech impediment which limits ability to converse in the relevant language.

Mental condition - Discretion should be exercised where an applicant has a mental impairment and, although able to meet the full capacity requirement, is not able to speak or learn the relevant language

2.3 Only where there is conclusive evidence that applicants do not meet the minimum standard required should the application be refused, and the applicants advised to re-apply when they can better meet this requirement.