

A Windrush in waiting: post-Brexit categories of citizen in Northern Ireland



*Northern Irish citizens are entitled to apply for an Irish passport, and many of those concerned about the consequences of Brexit have done so. But efforts to accommodate this, alongside changes to the status of EU citizens, will create no less than nine categories of citizen in Northern Ireland. **Ben Warwick (University of Birmingham)** looks at what this means for the Good Friday Agreement, and how it is all linked to the 'hostile environment' policy pursued by the Home Office.*

For some people, citizenship is little more than a logo on the front of a passport or a dropdown box on a form. It is possible to go through the whole of life without really thinking about what it means to be 'British' or 'Irish', let alone what it is to be a European Union (EU) citizen. Indeed, about 19% of Northern Ireland's population have [no passport](#).



However, rules around citizenship assume real practical significance for those whose livelihood and residency depend on their status. Since the Brexit referendum questions of citizenship have become more pressing for more people within Northern Ireland; there has been a growing realisation that different passports carry with them distinct benefits.

Calculations about the value of EU citizenship have moved many in Northern Ireland to apply for Irish citizenship, even when they would not previously have considered doing so. For some Unionists, such steps can be difficult to reconcile with personal identity; Ian Paisley Jr famously, and not entirely convincingly, sought to explain away an Irish passport as merely ['a European document with an Irish harp stuck on the front posing as a passport'](#).

Multiplying the categories of rights holder

A core feature of the Northern Ireland peace process was a drive towards parity of esteem for personal identity choices, exemplified by the Good Friday Agreement (GFA) principle that it is the ['birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both'](#). In this provision, the Unionist parties that signed up to the GFA accepted that Ireland's passport law is not a [threat to the integrity of the UK](#). It affirms that individuals must have their choices of symbolism and identity respected, and secures equal practical rights for UK and Irish citizens.



This equality has been essential to the peace process. However, the GFA's approach to protecting the 'two communities' (the Nationalist and the Unionist) has sometimes neglected other groups living in Northern Ireland. The needs of those holding neither a UK nor an Irish passport have frequently been [subordinated](#) to the interests of balancing Unionist and Nationalist concerns. The Roma and Traveller communities have, in particular, [fallen between the cracks](#) in a system of legal protections fixated upon citizenship. Brexit risks reinforcing this process.

In pre-Brexit Northern Ireland, EU passport holders have often been the objects of neglect, xenophobia and even violence (recorded racist crimes against EU nationals in Northern Ireland [rose by 48%](#) between 2012 and 2017). Nonetheless, their legal rights have been guaranteed by shared EU rules. Non-EU nationals, on the other hand, are subject to a greatly different set of rules and rights. There have been two main categories of rights holders before Brexit:

1. UK/Irish/EU citizens.
2. Non-EU citizens.

As a consequence of Brexit, these two categories will multiply. Not only will non-EU nationals receive different treatment in Northern Ireland, but there could be important distinctions between many more kinds of citizens. There will be additional complexities because of individuals' date of birth, residency and family relationships. If the terms of the December 2017 UK-EU Joint Report are to be given legal form, two broad classes of rights holder within Northern Ireland could multiply into as many [nine different categories](#):

1. Irish citizen.
2. UK citizen.
3. Dual Irish–UK citizen (with no Northern Ireland connection).
4. Dual Irish–UK citizen (part of the 'people of Northern Ireland').
5. Non-UK citizen who is entitled to Irish citizenship (eg Canadian citizen).
6. Non-Irish EU national (eg Polish citizen).
7. Non-EU, non-UK national (eg Jamaican citizen).
8. 'Worker' in Ireland with EU/UK citizenship (eg working in Dublin and living in Belfast).
9. 'Worker' in the UK with EU/UK citizenship (eg working in Armagh and living in Dundalk).

The all-important symbolism and practical consequences of citizenship are thrown into disarray by the creation of so many technical categories. The potential for administrative confusion is obvious, especially when people living side-by-side in Northern Ireland will have very different rights based on sometimes subtle differences that place them in one category or another. Residency, for example, will act as a significant complicating factor over and above the basic categories; the rights afforded to individuals will sometimes depend on where they are resident at the end of the Brexit transition.

Everyday citizenship

These new categorisations will be significant to many citizens' everyday lives. One impact of EU citizenship has been to extend the number of people for whom citizenship issues are not a pressing concern by reducing everyday differences between 'home' and 'EU' citizens.

The same benefits, however, do not extend to 'outsiders'. Citizenship acts as a club, where the members get benefits and outsiders must pay a higher price for the same benefits or are entirely excluded. UK citizens will soon find themselves outside the EU club and facing new difficulties when accessing benefits in EU countries. This will mean UK citizens in Ireland could soon face new challenges.

In the UK, migrants have long been subject to a particularly stringent immigration regime. The UK's treatment of non-EU nationals provides some evidence of its approach to immigration enforcement. The hostile environment policy – recently highlighted in the Windrush scandal – means that such individuals face regular [checks at banks](#) and in [tenancy applications](#), can have their details passed to immigration enforcement if they [witness a crime](#), incur high official [fees](#), attract an ['immigration health surcharge'](#), and face the prospect of indefinite detention pending deportation if found – [sometimes incorrectly](#) – to be living in the UK illegally.

These checks, often delegated to private and unqualified citizens such as landlords, impose considerable strain on all migrants, as well as people who appear to be migrants, and can hound people legitimately in the UK out of the country. The hostile environment can cause such anxiety that even those legally entitled to live in the UK avoid official channels for fear of deportation, detention or fees they cannot afford.

Post-Brexit there is a likelihood of similar increased administrative checks in Northern Ireland and elsewhere stemming from two UK government priorities. The first is the need to avoid a border between the UK and Ireland. Without checking who is crossing the border from Ireland, the UK cannot be sure who has entered the country by this route. Checks on people entering Ireland were [discussed](#), but the idea was rejected because such checks would be patchy, would call for very high levels of cooperation from the Irish authorities and would need a greater harmonisation of Irish and UK immigration policy. The second factor that shapes the push for further administrative checks is the desire to reduce immigration to the UK. There is no inherent need to monitor who is in the UK in such comprehensive and intrusive ways, and a different approach to immigration rules could monitor elements (eg employment) without checking so many aspects of an individual's life.

Citizenship and identity are prized and sensitive propositions. Brexit negotiations reflect at least some of these sensitivities. However, this has led to a complex array of categories of status for Northern Ireland, and the full consequences of the enforcement of these categories of citizenship are yet to be fully acknowledged. If a post-Brexit Windrush-on-steroids situation is to be avoided, and the GTA to remain intact, serious attention is needed urgently. One thing is clear, however: post-Brexit, citizenship(s) will become much more central to everyday life in Northern Ireland.

*This post represents the views of the authors and not those of the Brexit blog, nor the LSE. It is an adaptation taken from *Bordering Two Unions: Northern Ireland and Brexit*, which was published by Policy Press in August 2018, which was written by Sylvia de Mars (Newcastle University), Colin Murray (Newcastle University), Aoife O'Donoghue (Durham University) and Ben Warwick (University of Birmingham), and aims to provide an accessible and authoritative account of the legal difficulties which Northern Ireland creates for Brexit. A [free ebook](#) version is available [here](#).*

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