

Northern Ireland Affairs Committee

Oral evidence: [Citizenship and Passport Processes in Northern Ireland](#), HC 1111

Wednesday 14 April 2021

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Members present: Simon Hoare (Chair); Mr Gregory Campbell; Stephen Farry; Mr Robert Goodwill; Claire Hanna; Fay Jones; and Ian Paisley.

Questions 36 to 115

Witnesses

I: Lord Hay of Ballyore and Emma DeSouza.

Written evidence from witnesses:

– [Emma DeSouza](#)



Examination of Witnesses

Witnesses: Lord Hay of Ballyore and Emma DeSouza.

Chair: Good morning, colleagues, and good morning to our witnesses, Lord Hay and Emma DeSouza. Before we begin our formal proceedings, I want to address two sets of remarks on behalf of the Committee.

The first is obviously in relation to the death of His Royal Highness Prince Philip, Duke of Edinburgh, and in particular his work in Northern Ireland. The Prince first visited Northern Ireland way back in 1949, making then a further 57 visits, 19 accompanying Her Majesty the Queen. He visited all of the six counties, meeting thousands of people from all walks of life. Many have described the Duke of Edinburgh's Award scheme as having been a gateway for very many people, and possibly the Duke's most notable achievement. In Northern Ireland he attended every gold award ceremony, presenting recipients with their award until he retired. Just last year, 6,018 young people started the Duke of Edinburgh's Award scheme in Northern Ireland while a further 3,277 completed it.

We all remember that in 2011, with Her Majesty the Queen, the historic state visit to the Republic was made. It was warm, it was a first, and it was a towering success. The Duke then went on to use the award scheme as a bridge builder, inviting then President Mary McAleese to present the awards in Belfast while he reciprocated, presenting the President's Award in Dublin. One of the Duke's last public duties was at Hillsborough Castle, when he presented 115 gold Duke of Edinburgh's Awards. He was 95 at the time.

Since his passing, no one will have failed to notice the all-island and cross-party response expressed following his death. That of itself has been very significant. It has been dignified and, I hope it is not untoward of me to say, hugely appreciated. I believe it stands as a testimony to the progress made in recent years, and the role of the Royal Family and the Duke of Edinburgh in helping that progress. His was a long life, well lived, with the golden thread of service to the UK and the Commonwealth running through it. The ever-present consort to our Queen, he stands as an example to us all, and may he rest in peace.

As our Committee meeting this morning turns to citizenship, and it is right that it does so, on behalf of the Committee I wanted to say a few words about the events that have taken place in certain parts of Northern Ireland among a minority of people—much to the annoyance, shame and fury of the vast majority of the people of Northern Ireland, who are law-abiding citizens seeking to go about their business in the normal way. Conscious of the fact that policing and other issues are devolved, Westminster must always tread with a light touch and with delicacy, and that applies to this Committee as much as to anybody else.

Our not dealing with it and discussing it formally today should not be construed as a lack of interest or a lack of concern. Everybody on this



Committee—and indeed, I believe, the whole of Westminster—stands ready to do whatever is needed to restore stability and the progress of the Good Friday agreement. There is a huge amount of work going on, on the ground, with community, political and faith leaders, and others. I am sure the Committee will join me in wishing all those who are working for peace and stability well in their endeavours today and in the coming days.

We have had two apologies this morning. One is from Mary Kelly Foy and the other is from Scott Benton. Let me welcome our first witness, Emma DeSouza. Ms DeSouza, you are welcome. Your work in this area is well known and documented. I was going to ask you the magic question, as it were, by way of an opener. I want you to pretend you are a deciding Minister. You have carte blanche to do something in this arena of public policy. What would you do and why?

Emma DeSouza: Can I just check, Chair: am I giving evidence first in this session or is it Lord Hay?

Chair: Oh my gosh, forgive me. I have now got so confused—not a great start.

Emma DeSouza: I am ready for that question. I am ready for it.

Q36 **Chair:** Well, there you are; you have now been teed up. I am so sorry. I do not know what on earth has gone wrong there. Forgive me. The prize for incompetence goes to me; I will wear it with shame. Let us turn, as we should have done—if only we could turn the clocks back and delete that, but we cannot—to Lord Hay.

Lord Hay, you are very welcome. I suppose I am going to ask you that question. What is the central issue that we should be focusing upon in this inquiry, why, and how would you resolve it?

Lord Hay of Ballyore: Can I first thank the Committee for the invitation to come along and speak to you all on citizenship? Where I would start would be the cost. There is an enormous fee for British citizenship. It is around £1,300; it can be slightly more than that. This is very insensitive to many people who have already paid taxes and national insurance for most of their lives in Northern Ireland, and who simply want to register as a British citizen in this United Kingdom. It is interesting: in February, the Court of Appeal found that similar fees of £1,000 for children to register as British citizens were unlawful and must be reconsidered by the Home Office.

We will come back to the fee issue, but there is the whole issue of the process as well. British citizenship applications usually take six months; they can take much longer. The entire process has several steps, which is a major hindrance to people who genuinely want to apply for British citizenship. It can sometimes take an average of 12 months.



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First, British nationality experts review copies of your family documents and research your right to British nationality. After searching for any possible way in which you qualify, they will write you a detailed nationality report giving you a definite yes or no. That definite yes or no will cost you £350 to start with. Even if it is a no, you must still pay £350 up front.

The other issue is the timescale. The decision-making timescale changes so frequently. What matters is how many applications the Home Office is currently looking at, how many caseworkers it has working on applications and how it is prioritising and filtering applications upon receipt. Importantly, we do not have access to any of that information. That is information the Home Office refuses to give out. After all that, having British nationality does not guarantee you a British passport. People who have been living in Northern Ireland for many, many years, and who pay their taxes, have to jump through a number of major hurdles to get to where they need to get to, in order to end up with a British passport.

I suppose the question is what changes the Government could make to the barriers to all this. Routes to citizenship for those who have spent the vast majority of their lives contributing to the British way of life in Northern Ireland, to communities and to the tax base in the United Kingdom should not be fraught with difficulty and uncertainty. The radical and appropriate solution would be for the Government to allow those born in the Republic of Ireland after 1949 automatic entitlement to register as a British citizen, after they have been permanently resident in the United Kingdom for five or maybe eight years. That would be a simple way of doing it, if there was a will from the Government or the Home Office to look at it.

Coming back to the costs, which also must be dealt with urgently, applications should only have to pay the normal passport fee. There is a strong case for different arrangements for Irish-born citizens who have been long-term residents in Northern Ireland.

Q37 **Chair:** Thank you, Lord Hay. That is very helpful. You mentioned there the unwillingness of the Home Office to provide the information you spoke of. Why is that?

Lord Hay of Ballyore: I do not know. This is the big problem at the moment—you cannot get information. Once your application for citizenship is submitted, it sits there and you cannot track it. Nobody will give you the information about where that application might be at. It can be a fairly lengthy process.

If you take the Irish passport, they have a very simple way of doing it. If you apply for an Irish passport, it is about €80. You only have to be living on the island of Ireland, or have parents or grandparents living on the island of Ireland. If you are a single parent living on the island of Ireland,



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you are entitled to Irish citizenship; you can apply for an Irish passport. It will cost you €80.

It is a very simple process to receive it. You go to the post office and you fill in the application. You send proof of address, proof of name, photograph identification and proof of having been resident in Northern Ireland for three out of the four years. When you apply for Irish citizenship or an Irish passport, you can trace it online right through the whole process, and online applications are completed in approximately 20 working days. A UK application can take 30 or 40 working days.

What has happened? The Irish Government have made the system very simple for people who want to apply for an Irish passport. If you look at figures released last December, they indicate a 15% reduction in applications for British passports from Northern Ireland, with a 27% rise in applications for Irish passports. This is due to the quicker process and to the cost.

Q38 Chair: Is that a specially tailored expedited process for people with links to the island of Ireland? Is there a different approach, say, for example, if you are somebody from—I do not know—Pakistan who wants to apply for Irish citizenship and the like?

Lord Hay of Ballyore: If that person can prove that his or her parents were born on the island of Ireland, that person can still apply for Irish citizenship. It is about proving that you or your parents were born on the island of Ireland.

In 2005, the Irish Government looked at the whole issue of Irish passports generally and the process, and they simplified it to the point where it is now much simpler and easier to get an Irish passport than a British passport and British citizenship. This is why people are drawn to applying for an Irish passport, because there is a simple process.

Q39 Claire Hanna: Thank you very much, Lord Hay. I had intended to ask you about your experience of the process, but you have expanded on that. Thank you very much. I just have a couple of short further questions. What needs to be in place by way of qualifying conditions for people seeking the citizenship that you outline, in terms of a relevant number of years living in Northern Ireland and in the UK?

Lord Hay of Ballyore: You should have to prove that you have been living in Northern Ireland for three years or maybe eight years. We can adjust the years, but, if you have been living in Northern Ireland for three to five years—if you have been working, paying your taxes and national insurance, and all of that, and if you have been genuinely a part of the community—that is the way forward in trying to resolve this issue.

This affects about 40,000 people living in Northern Ireland. It is a huge number of people. That number is increasing every year. People are drawn to the application for an Irish passport, because it is a very simple



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process and it is €80. This whole process will cost you about £1,300, and it is the cost and the process that just puts people off.

Q40 **Claire Hanna:** Should the cost be abolished or reduced?

Lord Hay of Ballyore: If there is a will, there is a way for the Home Office to try to resolve this. I am not too sure the will is there, but I believe we should not be jumping through the hurdles that we have to jump through. You can pay all that money and find out at the end of it that you can get neither British citizenship nor a British passport. It is the huge amount of money that you have to pay out that puts people off.

There is a way of resolving this. I said earlier that automatic entitlement for anybody born after 1949 would be a simpler route to getting British citizenship and eventually ending up with a British passport. As I say, there does not seem to be a will at this moment in time to try to resolve this. It affects thousands and thousands of people living in Northern Ireland. These are people who have come from border towns. I was born in east Donegal. I am about 10 miles from the border. Many other people who were born in border towns, only a few miles from the border, have come to live and make their home in Northern Ireland. The whole thing is ridiculous in terms of how you try to resolve this issue.

Q41 **Claire Hanna:** Yes. Hume used to talk about accidents of birth a lot in his analysis. I briefly wanted to ask about your experience of the “Life in the UK” test. Would, in theory, somebody in your circumstances have to take that? Have you had to take it? Do you see the rationale for it?

Lord Hay of Ballyore: I do not really see the rationale for it—I just have to be honest. I did not take it, I have to say, because I felt I did not need to take it. I am 71 years of age. I have lived in Northern Ireland practically all my life. I have paid taxes, national insurance and all that. I am a Member of the House of Lords and all that. I do not think I should have to take a test to see whether my British citizenship stands up. It is ridiculous.

Q42 **Chair:** You have described it as ridiculous. Would you find it offensive as well?

Lord Hay of Ballyore: I find it discriminatory against those people who are living in Northern Ireland, who have been living in Northern Ireland for many years, and who find, when they go to apply for British citizenship, that they have so many hurdles to go through that it is nigh impossible. Then they look at the cost. It is a huge cost to get to where you need to get to in order to try to achieve a British passport.

I have every right. It should be my right to have British citizenship—to be part of this United Kingdom and to hold a British passport. I should not, and nor should anybody else, have to go through the hurdles that people have to go through to get to where they have to get to, in order to get a British passport.



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It goes against the very grain of the Belfast agreement, which recognises the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both. They can choose both. It is wrong that the Government fail to regard those born in the Irish Republic but who have lived in Northern Ireland for almost all their lives as unworthy of practical recognition under the provisions of the Belfast agreement and the St Andrews agreement. I would refer people back to the Belfast agreement. There should be parity of esteem. Certainly for people living in Northern Ireland who were born in the Republic, that is not the case.

Q43 **Mr Campbell:** Good morning, Lord Hay. Lord Hay and I have known each other for a very, very long time. You have outlined some of the issues. Just to bring it down to a personal level, you have been a UK resident for some 50 or 60 years.

Lord Hay of Ballyore: It has been about 65 years.

Q44 **Mr Campbell:** Is it the case, then, that since adulthood you have been a UK taxpayer for most of those years?

Lord Hay of Ballyore: Yes.

Q45 **Mr Campbell:** For example, in Northern Ireland we have different systems for voting. Some people are entitled to vote in one type of election but not in another, but you are entitled to vote in any election: local elections, general elections, Assembly elections and, when we were in the EU, European elections. Is that right?

Lord Hay of Ballyore: Yes.

Q46 **Mr Campbell:** In a general election, if you are helping to decide the make-up of the House of Commons, from which the UK Government decides policy for UK citizens, you have a right to vote.

Lord Hay of Ballyore: Yes.

Q47 **Chair:** Unless I am very much mistaken, I do not think Members of the House of Lords can vote in general elections, because Parliament is always sitting.

Mr Campbell: Yes, up until he became a Lord, sorry.

Lord Hay of Ballyore: That is right, yes.

Q48 **Mr Campbell:** All those things are your right, because you have lived and worked in Northern Ireland for some time.

Lord Hay of Ballyore: Yes.

Q49 **Mr Campbell:** But to get a passport, a UK passport, you have to pay over £1,300 and go through the hoops you have suggested, in order to prove you are—what? Do you describe yourself as a British citizen? Do you regard yourself as British?



Lord Hay of Ballyore: Yes, very much so.

Q50 **Mr Campbell:** Yet the Home Office will not permit you to demonstrate that by holding a British passport.

Lord Hay of Ballyore: That is right.

Q51 **Mr Campbell:** It might surprise you to know that, last time we were looking at this, three weeks ago, immediately after the session I was contacted by a couple of journalists who had been watching the proceedings online, one of whom said he had been born in the Republic but had lived in Northern Ireland for 30 years. He asked if it applied to him. When I told him that it did, he said, "I was not aware of that". Does that surprise you?

Lord Hay of Ballyore: It does.

Q52 **Mr Campbell:** This was a reporter, Chair, a person whom I know. If I mentioned the name, all the Northern Ireland MPs would know who I was referring to, but I will not. He was totally unaware that he fell into this category, because he had lived in Northern Ireland for 30 years but was born in the Republic. In terms of the financial and bureaucratic barriers that exist, Lord Hay, are you saying that the will is with the Home Office and that, if it exercises the will, it can devise a way to circumvent this or remove the barriers?

Lord Hay of Ballyore: The problem with the Home Office and the Government is that they are afraid, maybe, to open a Pandora's box and create a bigger problem. Let me say to you, Gregory, and say it very clearly, that this only needs slight adjustment for people who were born in the Republic, have moved to Northern Ireland and are trying to get a British passport.

We need a slight adjustment to resolve this issue. To resolve it, very simply, the Government should look after people who were born after 1949 in the Irish Republic, who have moved to Northern Ireland, and who can prove that they have been living in Northern Ireland for three to eight years.

The Government could look at a number of other issues as well, especially the cost. What really does put people off is the huge cost. There would be a way of resolving this issue, if there was a will from the Home Office to resolve it and make it a very simple process. When you look at the cost and you look at the process, it certainly puts people off. There is a way to resolve this issue, if there is a will within the Home Office to resolve it.

Q53 **Mr Campbell:** Does it surprise you to know that approximately 10,000 British passports are issued every year by the British Government from their Dublin office? These are British passports allocated to people who live in and around the Dublin area who regard themselves as British, even though they live in the Irish Republic.



Lord Hay of Ballyore: That does surprise me, now. I did not have that figure. That does surprise me.

Mr Campbell: That is from a series of written questions that I have put down over the past couple of years, Chair. Thank you very much, Lord Hay. That is fine. That is all.

Q54 **Fay Jones:** Good morning, Lord Hay. You mentioned some of the small changes that could be made and really how straightforward this could be for the Home Office to fix. What has been the reaction of the Government when you, and maybe others you might know of, have made this suggestion directly to Government?

Lord Hay of Ballyore: As I said earlier to Gregory, in the back of its mind the Home Office may see that opening this Pandora's box perhaps might create bigger problems in and around immigration applications and all that. I am talking about people born in the Irish Republic who have moved to Northern Ireland, lived in Northern Ireland all their years and paid their taxes and national insurance, with the right to vote and all that.

I am saying to the Home Office—I keep repeating it—that a modest change in the current practice could reflect that group of people's applications to have UK residence. Although you are looking at about 40,000 people, only very modest changes in the current practice would get us where we need to get to.

As I say, I think there is a bit of a fear within the Home Office about trying to find a way to resolve the situation. This is discriminating against people who see themselves as British and find it difficult to either get British citizenship or to get a British passport. These are people who have lived in Northern Ireland all their lives.

Q55 **Fay Jones:** Could you say a little more about the opening of Pandora's box, as you put it? Why are the Government reluctant? What could be within Pandora's box?

Lord Hay of Ballyore: It is very hard to get information out of the Home Office as to the reason why it does not want to take this particular issue on. As I said earlier, these could be modest changes to make this particular issue resolvable, but there has been a total reluctance from the Home Office to try to find a way of resolving it. It is very difficult to know the mindset of officials in the Home Office about finding a way to do what needs to be done here.

People continually talk about the Belfast agreement, parity of esteem, two communities, recognising whether someone is Irish or British and all that. To the people who have come from the Irish Republic to live in Northern Ireland, this is totally, as I have said earlier, discriminating against them. I have said to the Home Office that this issue could be resolved in and around this group of people. You would have to prove, of course, that you have paid your taxes, you have voting rights here, you



pay your national insurance and you have been resident in Northern Ireland for, say, three or eight years.

The fee should be a normal application fee—£75, £80 or whatever—to get to where you need to get to. Even to start the process, it costs you £350, whether you get a yes or a no on whether you have been successful in applying for British citizenship. Then for the entire remainder you pay well over £1,000 to take the process further. Then you pay £75 or £80 to try to get a British passport. There is a huge process and a huge cost. Many people in Northern Ireland who are trying to get British citizenship just cannot afford that type of money.

Q56 Chair: Lord Hay, on the subject of the Home Office, do you detect an anxiety or residual concern? I note that you have been very keen to talk about where people were born as, effectively, the key qualifier—base one, as it were. Do you think they would be anxious about, in essence, free movement into the Republic and the common travel area? Do you think the Home Office has understood clearly enough the point about where you are born, which you have been very keen to make?

Lord Hay of Ballyore: No, that is the other problem. It is a good point. I think there is a misunderstanding from within the Home Office of this whole issue. That is the big problem, more than anything else. You may have to take this to the highest level of Government to try to resolve it. I suppose we could say to ourselves, "This issue should have been taken up when we were negotiating the Good Friday agreement or the St Andrews agreement". Maybe it was an issue that was missed at that time, to try to find a resolution to this particular problem, because it does discriminate against around 40,000 people in Northern Ireland at the moment, and that figure is rising.

Coming back to the Home Office, I think there is a misunderstanding from the Home Office in and around this whole issue. They do not see it as a priority, which is a big issue as well. Some of us see it as a real priority to try to address some of the problems. I know your Committee previously looked at this one in another mandate and it really went nowhere as well.

I know public representatives have made written submissions to the Home Office on this particular issue as well. In correspondence with the Home Office, I know a former Chair of the Northern Ireland Affairs Committee recommended that the requirements of British citizenship and the payment of associated fees should be waived, in cases where long-term residents of Northern Ireland who were born in the Republic of Ireland wish to assert a British identity by holding a British passport. Quite obviously, the Government thus far seem very reluctant to address the issue, because I think they just do not understand the issues. That is the big problem.

Chair: Thank you. That has certainly given us food for thought.



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Q57 **Ian Paisley:** Lord Hay, it is great to see you at the Committee. Thank you for your evidence so far. On a couple of occasions you have mentioned this number of 40,000 people. Where does that figure come from?

Lord Hay of Ballyore: That comes from the 2011 census figures, indicating that there were about 40,000 people born in the Republic after 1949 who were living in Northern Ireland. You are talking about in or around 40,000 people. That comes from the census figures. That figure has increased.

Q58 **Ian Paisley:** Of that figure, would your view be that they are predominantly from one section of the community or is there a good spread? Does the census show that there is a good spread across the entire identity of the community in terms of the breakdown of religious and political identity, such as Roman Catholic, Protestant and others?

Lord Hay of Ballyore: In that figure of 40,000, I would say that those people at this moment in time are spread right across the community. There possibly would be a slight majority of Unionists within that figure.

Q59 **Ian Paisley:** It is diverse and reflects the makeup of Northern Ireland's population anyway.

Lord Hay of Ballyore: It does. Yes, that is right.

Q60 **Ian Paisley:** There is an idea that opening this up in the way you have described would somehow be an abuse of process, but it would not in the sense that this reflects the identity of the community anyway. Allowing this would not change anything dramatically in terms of how the identity of Northern Ireland looked. Is that right?

Lord Hay of Ballyore: No, it certainly would not. I speak to people all the time who have difficulty trying to get British citizenship and eventually ending up with a British passport. They feel very strongly that holding that British passport comes to them as being British and being part of this United Kingdom. They find they are totally and absolutely blocked in many areas around the process, especially around the cost. The cost is a huge concern to people.

Q61 **Ian Paisley:** It is. We are going to come on to that. Thank you for referring to that. When did you first get a British passport?

Lord Hay of Ballyore: I have not got a British passport yet.

Q62 **Ian Paisley:** Sir, you have to travel. You have been the Speaker of the Northern Ireland Assembly; you have represented Northern Ireland in the highest offices across the world in terms of the institution of the Assembly; and you are now a member of the House of Lords. You are telling me that you are forced to get a passport from a country that you do not feel an identity or an affinity with. Is that right?

Lord Hay of Ballyore: This is what I was quite annoyed about, having gone through all of that, Ian, as you have said, and having been in



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Northern Ireland all my life. Why should I be interviewed on whether I come up to speed and have the qualifications of being British? I just refuse to do that. It is wrong.

The evidence is there: you have lived in Northern Ireland practically all your life. You are part of this United Kingdom in so many ways—whether it is through taxes, through voting, through being a Member of the House of Lords or whatever. I do not believe I should have to go to Liverpool to go through an interview for something for which the proof is already there.

Q63 **Ian Paisley:** Do you think your human rights are being diminished as a result of this?

Lord Hay of Ballyore: Yes, very much so—and so do many, many other people across Northern Ireland. People who have come from the Irish Republic and have lived in Northern Ireland all their lives feel as if they are being discriminated against, even under the Good Friday agreement and the St Andrews agreement, which goes much further than the Belfast agreement, which many people like to quote. This goes against the grain of the Belfast agreement.

Q64 **Ian Paisley:** In your political career, were you ever a candidate for a general election?

Lord Hay of Ballyore: Yes. I have been a candidate in maybe four or five general elections.

Q65 **Ian Paisley:** If you had been successful in those campaigns and turned up in Parliament, you could have taken your seat and yet the Government would still have denied you a British passport. It is bizarre, is it not?

Lord Hay of Ballyore: Ian, it is ridiculous. It is something that you would mention in outer space. It is unbelievable. The problem—again, I keep coming back to this—is that it is not a priority for the Home Office. You are just another application. You are going to go through the process. If you are successful, that is all right. I have now reapplied for a British passport just to see exactly how I might do again. I keep coming back to this: this is not a priority within the Home Office. This has to be raised at the highest level in Government.

Ian Paisley: That is what you are doing today.

Lord Hay of Ballyore: There are many thousands of people being discriminated against in Northern Ireland.

Q66 **Ian Paisley:** What you are doing today, your evidence and the clarity of it, is helping us to do that, which is very important. People can hear and see, first hand, just how perverse the current regulations are and how they are affecting people who clearly have standing, have entitlement and are being denied, as you say, their human rights.



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Could I ask another question of you? Have you found that, because of where you were born and this issue of citizenship, this has caused you any other issues? Have banks been reluctant to bank you in the United Kingdom? Have you had any problems getting on an electoral register in the United Kingdom? The taxman probably has no problems meeting you every month and taking money off you. All those things work fine, but the Home Office cannot fix this problem. That is essentially what you are saying to us.

Lord Hay of Ballyore: Yes, that is right. This does not only affect me personally. As you are saying, there is an issue around voting rights, paying your taxes and your national insurance, living in Northern Ireland for many years and making Northern Ireland your home. You feel very strongly that you are part of this United Kingdom, and then when it comes to getting a British passport it is nigh impossible. It is to a point where people are just totally turned off with the whole process and the cost.

Q67 **Ian Paisley:** I want to ask you one final question. When you need to go abroad, you need to use an Irish passport, essentially.

Lord Hay of Ballyore: Yes.

Q68 **Ian Paisley:** On that, does this end up, in a perverse way, diminishing the status and standing of an Irish passport? You have to apply for it really against your will; you see it as a convenient travel document rather than a statement of your nationality and citizenship. Is that right?

Lord Hay of Ballyore: Yes, very much so. You have to use a passport to get where you need to get to, so you use whatever passport you have. Most people who are fighting this battle for British citizenship just apply for an Irish passport and get it for travelling and doing what they are doing.

Q69 **Ian Paisley:** As an unintended consequence of what it has done, the Home Office has ended up—certainly in your eyes and in the eyes of the 40,000 people like you and more—diminishing the standing and status of the Irish passport.

Lord Hay of Ballyore: Yes, very much so. The Home Office is driving people to apply for Irish passports; it is driving them in that direction.

Ian Paisley: Thank you very much, Lord Hay. That has been very, very helpful.

Q70 **Chair:** Can I just ask you one or two questions that flow from that? In terms of those who may wish to apply, do you have any inkling as to those who do not because of the cost versus those who will not apply because they do not believe they should have to?

Lord Hay of Ballyore: There is some merit in that. People look at the process and the cost, and they say to themselves, "If I pay the money and go through the process, will I end up with British citizenship and a



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British passport?" They look very closely at the whole process and the cost, and they say to themselves, "No, I will not bother". Then they are driven towards an Irish passport. When they look at the Irish passport process, it is a very simple process, because the Irish Government in 2005, as I have said earlier, decided, "We will streamline the process and make it easier for everybody living on the island of Ireland". The Government need to look at streamlining the whole situation, which makes it simpler, easier and less costly for people to apply.

As I keep saying, this has to be taken up at the highest level of Government, even as far as the Prime Minister, to try to find a way through all of this, to convince the Home Office to do what it needs to do, and do it right.

Q71 **Chair:** We have certainly asked the Home Office to provide a Minister to this inquiry, and we hope it will do so. Let me just ask you two further questions, if I may. Of those who do apply, have you any inkling as to how many are actually rejected?

Lord Hay of Ballyore: I do not. We find it difficult to get that answer out of the Home Office. It would be a very interesting figure to know how many people have applied and been turned down.

Q72 **Chair:** Can I just turn to your personal circumstances? Through your answers to Mr Paisley's questions, we know the passport under which you travel. I think I heard you say that you were now minded to reapply for a British passport, which suggests that hitherto you have applied. What was the determination of that application? Did you withdraw it or were you turned down?

Lord Hay of Ballyore: I went through the process and then found out that, for whatever reason, you have to go through an interview when you apply for British citizenship. They have to find out more detail about you, the evidence you give and all of that. I was not prepared to do that. There is enough evidence out there for most people to show the Home Office that they have lived in Northern Ireland all their lives, they have paid their taxes, they have the right to vote and to work, and all of that. Why should you have to go through an interview to prove further that you really are what you say you are? I was not prepared to do that.

That was some time ago. I waited until I became a Member of the House of Lords. Now I have applied for a British passport again—the application is away some weeks—just to see how it might frame up this time and how it might work.

Q73 **Chair:** I am sure you would agree with me that it is a great position being a Member of the House of Lords, but in actual fact it is not just Members of the House of Lords who should be exempt from this troop up to Liverpool for an examination of, "Who was the Prime Minister during the second world war? What is the currency of GB? Do you put the salt or the vinegar first on your fish and chips?" or whatever the current



questions are. Your thesis is that everybody who can demonstrate birth, residency, taxes, national insurance, et cetera, should be exempt from undertaking that examination, be they a Member of the House of Lords or not.

Lord Hay of Ballyore: That is right. I do not really want to be talking about myself so much; I recognise that there are many thousands of people who are in the same position as I am. Irrespective of whether you are a Member of the House of Lords, I am saying that, if there is a will, there is a way for the Home Office to find a way of resolving this issue. The will is not there. I do not think they understand the circumstances of the people who are applying.

Chair: Where there is Goodwill, there is a way—Robert Goodwill has our next question. You may know, Lord Hay, that Mr Goodwill was a very much respected Minister of State at the Home Office with the immigration brief. Robert, you may have to turn Queen's evidence in due course. I do not know whether you are poacher or gamekeeper; I think you are poacher today. You have a question, but I do not know whether you wanted to reflect on anything Lord Hay has said with regards to the stance of the Home Office.

Q74 **Mr Goodwill:** Yes, I must plead guilty to some of the fees that are charged. When I was in the Home Office, I asked the question about why we charge these quite high fees. The answer I got was, "This is on a cost-recovery basis. Some of the cases we get are quite complex. We get people trying to fraudulently obtain a UK passport and, therefore, there have to be a lot of checks within the process. The fee is designed to cover that."

I wonder whether you would agree with me that, as part of our report, we should ask the Home Office to give a breakdown of the typical costs of processing a Northern Irish application from an Irish passport holder for a UK passport or citizenship compared to, for example, the rest of the world. Might that be a good way of trying to look at some of these charges and how they can be refined to address the situation?

Lord Hay of Ballyore: Yes, that would be a fair question to try to put to the Home Office. The charge is the same; it is £1,300 irrespective of where you live. For people in Northern Ireland who want to British citizenship with a British passport, it is the same fee. It is £1,300, and it can be more, irrespective of where you are.

I would say there are about 25,000 people, maybe more, who would genuinely want to try to achieve a British passport, but the cost is still the same. I am saying to the Home Office, "You should look at the Northern Ireland issue." It affects a small amount of people who have been born in the Irish Republic, who have moved to Northern Ireland and lived in Northern Ireland all their life, who have paid their taxes, who have worked, who pay their national insurance contributions, who vote, who



have the right to do all of that and can prove, after 1949, that they have lived in Northern Ireland for maybe three to eight years.

In the Republic of Ireland you only have to prove that you have lived three years out of the four years on the island of Ireland. The way to try to start to resolve the issue might be the Home Office looking at the process and the cost. I believe, quite honestly, that the cost should be the cost of a British passport. It should be the same as the Irish Republic where it is €80 for a 10-year passport.

It takes 12 weeks to get an Irish passport. If you want it in a hurry, you can go down to the main office in Dublin and you can have it in three days. That is how slick their operation is. In the Home Office, we do not have a slick operation in and around the process and the cost.

Q75 **Mr Goodwill:** There is even a VIP service. They will come to you if you are prepared to pay a big enough fee.

Lord Hay of Ballyore: That is right. They will do that for you. In fact, there is nothing they will not do for you to get you your Irish passport. There is such a smooth process of getting your Irish passport. As I say, the Irish Government looked at this in 2005 and decided to change the whole process and make it much simpler for people who genuinely live on the island of Ireland.

Q76 **Mr Goodwill:** There seem to be two separate issues: the issue of identity—my Lord made very clear indeed how strongly you feel about that—and the issue of the practicality of whether you are holding an Irish or a UK passport. Can you give me any example at all of how you have been disadvantaged, in the workplace or in whatever you have done in your life so far, by having an Irish passport in your pocket rather than a British passport?

Lord Hay of Ballyore: No, I can think of nothing that has created a problem for me from holding an Irish passport. The problem is that I see myself as a British citizen. Living in Northern Ireland all my life, I have a right to British citizenship and a British passport. I am being discriminated against because I cannot get my British passport. I count myself as British.

At this moment in time, I need to hold an Irish passport to get to where I need to go to. The problem is that the process is driving people towards Irish passports. That is the big problem. People say, "I am not going to go through that whole process. I am not going to pay £1,300. I will go to the post office and get my application for an Irish passport. I will fill it in and send along the necessary documents."

In the Irish passport process, you can trace your application. You can find out where it is and where it will come out at the other end. The timescale is around eight to 10 weeks.

Q77 **Mr Goodwill:** Would you agree that, since we have left the EU, as an



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Irish passport carrier you have a number of big advantages? For example, if you had a place in Spain and you happened to stay there for more than 180 days, you would not become liable to pay Spanish tax. If you want to marry somebody from outside the EU, you do not need to meet the income requirements the Home Office requires; the last time I looked it was £18,600.

It is likely that we are going to see a lot more Northern Irish citizens or people of Irish descent here in the UK applying for Irish passports just because of the advantage in terms of ease of movement, ease of health insurance, et cetera.

Lord Hay of Ballyore: You make a fair point. That is exactly right. But that does not take away from your right to hold a British passport. I know some people in Northern Ireland who hold an Irish passport and a British passport. Under the Good Friday agreement on the parity of esteem, that is the way people thought it was going to be: you can identify as British or Irish and hold both passports, through the Belfast agreement. That is not the case. A section of the community in Northern Ireland has been discriminated against because, for whatever reason, they have a difficulty getting a British passport.

As I say, I know people who hold both: they have a British passport and then they apply for their Irish passport for different reasons, which you have spelled out there.

Q78 **Mr Goodwill:** Do you know, by the way, if you carry both passports, whether you can pick and choose which benefits you have? For example, if you were in your holiday place in Spain, would they say, "Sorry, you have to go back to the UK after 90 days" or, "That is okay; we will take the Irish passport"?

Lord Hay of Ballyore: My understanding is that you can use either in those circumstances. If it advantages you to use an Irish passport, you use it; if it advantages you to use the British passport, you can use it. The problem of many thousands of people in Northern Ireland, and my problem, is that they have an Irish passport, but they have a difficulty in trying to get a British passport because they see themselves very much as British within this United Kingdom.

Q79 **Mr Goodwill:** What about other people in GB? I can think of three cases in my own constituency. One young man, whose parents emigrated to Australia, was born in Australia, but they came back straightaway. When checks started coming in, he found he could not get a job in the UK because he did not have a nationality at all.

Somebody else was adopted as a child but was an American citizen. Despite living and working in the UK for 50 years, she suddenly found she was rejected for a job. There are a number of other categories of people who may be in the same situation as you, who have lived in the UK all their lives and are faced with the £1,300 fee, which is something they maybe do not have or something they feel in principle they should not



have to pay. Is it wider than just Northern Ireland?

Lord Hay of Ballyore: It is, very much so. One issue that needs to be dealt with immediately is the cost and reducing the cost. If the cost were reduced, it might be much easier and simpler for people to apply. When people look at the huge costs and the process, they say, "For goodness' sake, I do not even have the money to do what I am going to do, trying to get my British citizenship. I can spend this money and find out that, at the end of the day, I have been rejected either as a British citizen or in getting my British passport".

There needs to be an immediate look at the huge cost and finding a way to reduce it. If it was reduced, it would be a start for people applying for British passports and British citizenship.

Q80 **Mr Goodwill:** The Government reduced the cost in the case of the Windrush generation. Maybe if you had come from the West Indies rather than south of the border, you might be in the situation of already carrying a British passport.

Lord Hay of Ballyore: Yes, very much so. As I said earlier, the vast majority of these people have come from border towns in the Irish Republic and have crossed the border. I live in Londonderry, less than 10 miles away from my hometown of east Donegal. You can see it is people who have lived and have just crossed the border.

It is ridiculous. You have thousands of others who cross to the Republic, who have never lived in the Republic and have never worked in the Republic, but can apply for an Irish passport and get it. It is totally and absolutely crazy. It is wrong. These people will tell you that: "I was not born in the Irish Republic. I have never worked in the Irish Republic. I have never paid taxes. But I can apply and get my Irish passport".

Stephen Farry: Good morning to Lord Hay—or Mr Speaker, as I still call him. I just want to follow up on the point about no disadvantage. Lord Hay, I appreciate that in your own situation you have not been disadvantaged by this situation. I want to raise what are, in your case, somewhat theoretical but may well for other people be practical issues.

First, presumably your status in the UK is derived under the common travel area. Your rights and entitlements are based on convention as opposed to formal legal entitlements in some respects. A second aspect would be that, presumably, if you were ever unfortunate enough to find yourself in trouble overseas, you would be expected to go to the Irish consular services rather than to the UK equivalent.

The final issue is that we are aware that there are a range of sensitive jobs, often security-related jobs, to which only British passport holders are entitled to apply. There is a wider issue that the birth-right entitlements under the Good Friday agreement are not fully respected in that regard, but, for now, are you aware of anyone who has been detrimentally affected by not having a British passport and being denied



some of those sensitive employment opportunities?

Lord Hay of Ballyore: I am not, no. I cannot relate to any issue where somebody who is holding a British passport has been disadvantaged somewhere else just because they are holding that British passport. I do not know of any, to be quite honest.

I do know that people who are holding Irish passports would tell you that their Irish passport is sometimes more of an advantage to them than their British passport, but people are now holding both passports for one reason or another, to try to make it as simple as possible, as Robert described earlier.

There are advantages and disadvantages around this. The key issue is that people who feel very strongly that they are British, who have been living in Northern Ireland for many, many years and who have been doing what they are doing—a normal job, taxes and all of that—feel that they are being discriminated against when they eventually apply for British citizenship or a British passport.

That is the big issue for them, and the whole process that they have to go through to prove their entitlement to British citizenship. That is totally wrong and it is discriminating against the small number of people who have crossed the border from the Republic of Ireland to live in Northern Ireland and make Northern Ireland their home. That is the key issue more than anything else.

Q81 **Ian Paisley:** This flows from the two questions Mr Farry asked you about access to delicate and special information. Over your business career, you have been a very senior member of the Policing Board. You have also been the Speaker of the Northern Ireland Assembly. During the course of that, it is a fact that you would have received very important security briefings from the military services, MI5 and the police. Is that correct?

Lord Hay of Ballyore: That is right, yes.

Q82 **Ian Paisley:** Was there ever a point during that when you were told, "Sorry, you do not have a British passport; we cannot talk to you"?

Lord Hay of Ballyore: No, absolutely not. It was never questioned.

Q83 **Ian Paisley:** It really does go back to this matter of the Home Office needing to get a grip on this and to fix this.

Lord Hay of Ballyore: It does, very much so. As I say, there could be very modest changes to try to resolve it, but I am not too sure the will is there at the Home Office to resolve it.

Q84 **Ian Paisley:** Has there been any co-operation, in your experience, with the Republic of Ireland authorities in getting the information the UK requires for these applications? Have they demonstrated or indicated a willingness, or has it just not raised its head yet that there is an issue of a lack of co-operation? My impression is that there would be good



co-operation on it.

Lord Hay of Ballyore: The co-operation has been excellent. It has been very, very good. It is not for me to say it, but the Home Office should look at how the Irish Government simplified the whole thing back in 2005. They made it much easier for people who were born and living on the island of Ireland. It is a very simple process; it is a very reasonably priced process; it is a process that you can trace and follow. If you put in your application for an Irish passport, you can trace the whole application. You will find out when it comes out of the other end. It takes normally eight to 10 weeks, and there is a fee of €80.

Q85 **Ian Paisley:** Finally, just going back on the issue of job security and issues around that, when you were a member of the Policing Board, a number of the people who applied to join the PSNI would have come from the Republic of Ireland and only held Irish passports.

Lord Hay of Ballyore: That is right. We have that today in Northern Ireland. We have a number of people living in the Irish Republic who have come here to join the PSNI and who hold an Irish passport.

Ian Paisley: Thank you very much. That is very helpful.

Chair: Lord Hay, can we thank you for your evidence? We will take it very firmly into account, clearly, when we come to write our reporting. We very much hope we will have the opportunity to put some of the points that you have raised with us to a Minister from the Home Office during the course of this inquiry. Thank you very much indeed for your time this morning. You are very welcome to stay and listen to the second part of today's meeting.

We will now go to Emma DeSouza, I hope, to whom I once must again apologise for inadvertently putting on the spot at the start of the meeting. I dread to think what was going through your mind when you suddenly thought you were going to be first at the stump, rather than Lord Hay. My apologies to both of you for that. I would love to be able to blame somebody else, but I cannot; it was my own manifest incompetence. I apologise.

Ms DeSouza, I gave you—so you have had plenty of time to prep—my opening question. What would you like to see done? What is the issue? What still needs to be done, following on from the case that you had and that we all know about?

Emma DeSouza: Can I begin by thanking you, Chair, and thanking the Committee for the opportunity to speak with you today? That is a pretty big question to open up with, addressing a very complex legislative issue. I wonder if you might permit me to make a comment on Lord Hay's evidence at the beginning before answering your question. Would that be okay?

Chair: Yes, and of course I will give Lord Hay the right to come back.



Emma DeSouza: Thank you so much. First, I support what Lord Hay is recommending in terms of addressing the prohibitive, costly and very bureaucratic naturalisation process within the United Kingdom. I certainly share his criticisms of the Home Office.

It also needs to be very clear that this is not a Good Friday agreement issue but really a Home Office policy issue. Someone such as Lord Hay, who was born in the Republic of Ireland, does not come under the remit of the Good Friday agreement, as is defined in annexe 2, in the same way that someone who was born in London, Birmingham or Berlin and lives in Northern Ireland does not come under the remit of the Good Friday agreement. There are, of course, very important issues to unpack there.

I also wanted to clarify the process for naturalisation in terms of gaining an Irish passport. Of course, the process of becoming naturalised as an Irish citizen in Northern Ireland is actually even more restrictive than the British naturalisation process. You cannot simply apply for an Irish passport if you reside in Northern Ireland; rather, you can do so only by marriage or by descent. There is no policy to naturalise as an Irish citizen in Northern Ireland simply through residence.

The process is quite complicated. My husband is naturalising at the moment to become an Irish citizen, which we are very excited about, but the process is complicated. He had to be married to me for three years. We then had to go through an expensive process that cost a little over €1,000. It takes two years to process his application, and the application form is very lengthy. It is not an easy, streamlined process. People such as someone born in London who has resided in Northern Ireland for 30 years but is not married to an Irish citizen has no way of gaining Irish citizenship.

I just wanted to clarify that point very quickly. I am happy to discuss that with you and Lord Hay. I can move on to answering your question, if you would like, after that.

Q86 **Chair:** Yes, go on then. Lord Hay, do you want to come back on that?

Lord Hay of Ballyore: My understanding is that, certainly back in 2005, when the Irish Government looked at simplifying the process, if you were born on the island of Ireland, if one or two of your parents could prove you were born on the island of Ireland, you would have a right to apply for British citizenship. That is my understanding. Then you can apply for your Irish passport. You have to show proof.

Yes, it can be a long process, but it is a much simpler process if you were born on the island of Ireland. I cannot speak for people who were born not on the island of Ireland but outside the island of Ireland. That, to me, is a different process.

Emma DeSouza: Thank you for that clarification, Lord Hay. Just to add to that, what you are referencing there is citizenship by descent.



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Someone who has a British parent has the same right in terms of obtaining British citizenship as someone who was born with an Irish parent. We are talking about citizenship by descent, and they are actually the same in Britain and in Ireland.

I just wanted to clarify that residing in Northern Ireland does not give you this ease of access to Irish passports. There are thousands upon thousands of EU citizens, for example, who are not married to an Irish citizen, who can naturalise as a British citizen because they are resident in Northern Ireland, but cannot naturalise as an Irish citizen and have no route to Irish citizenship. What you are looking here are naturalisation processes and immigration processes. They are very complex. They are really nothing to do with the Good Friday agreement.

I suppose I will answer your question now, Chair, and actually go into what you asked in the beginning. I apologise for diverting there.

Chair: No, that has been enormously helpful. Thank you.

Emma DeSouza: I should commend to you a briefing document from the Committee on the Administration of Justice. It has released a briefing note that details the naturalisation process in Northern Ireland for Irish citizenship and British citizenship, which should give some clarity as to those issues.

In answering your question at last, I heard a lot in the first session about discrimination. Of course, I am an Irish citizen who was born in Northern Ireland who does come under the remit of the Good Friday agreement. Yet as an Irish citizen I cannot simply be accepted as Irish under the terms of the Good Friday agreement. Rather, it is expected that, if I want to be accepted as Irish only, I must go through a costly and bureaucratic process that involves me having to first declare myself as British.

The process of renunciation of British citizenship costs £372. The first line is a declaration: "I am a British citizen". It requires a citizen to give evidence that they are in fact British, including their parents' birth certificates and marriage certificates, and a lot of documentation to support the fact that they are British citizens. It takes up to six months to process the renunciation form. You have to give up your Irish passport and your freedom of movement for those six months. Afterwards, there is uncertainty as to what rights and entitlements you would retain.

We have had a case previously where an Irish citizen born in Northern Ireland renounced British citizenship and then was erroneously told that they no longer had a right to remain in Northern Ireland. The Home Office quickly backtracked on that case once it went to the press, but that is one example of the uncertainty that comes from going through this process.

What would I do? I have a long list of recommendations that would be helpful. We are now 23 years on from the Good Friday agreement, and



we need to see the right to be accepted as Irish or British, or both, have some kind of meaning. It has to be meaningful in law. This idea that the Good Friday agreement refers to some abstract notion of identity where I can feel Irish but do not have a right to be legally accepted as such is, to me, a disservice to the negotiators of the Good Friday agreement.

There are a number of issues that can be addressed immediately. First is looking for a long-term policy on family reunion rights. Of course, there was the change brought in, in response to our case, that gives a temporary fix and allows the people of Northern Ireland to be considered EU citizens for immigration purposes, but this will end in June. That also brings into question whether that would breach the non-diminution of rights under the withdrawal agreement and we would then be losing these rights. You could look for a long-term immigration solution to retain family reunification rights. That should apply to all the people of Northern Ireland so there is parity of esteem.

Secondly, you could look at the renunciation form. This form should be reviewed to make it specific to Northern Ireland. Move away from this requirement for a declaration of British citizenship to then revoke British citizenship and look more to a right of election. All fees should be waived in reference to the renunciation process.

A long-term solution has to be looking at the British Nationality Act. An amendment to the British Nationality Act will not only protect Irish citizens in Northern Ireland now, but protect all citizens of Northern Ireland by maintaining their right to Irish and British citizenship, and both, in perpetuity, which is what is meant in the Good Friday agreement. Those would be my recommendations to start.

Q87 **Chair:** Thank you for that. Why do you think the Government or Home Office view has been that nothing in the Belfast agreement triggers any of these issues that you are talking about? The Government have said the changes to citizenship would be contrary to the agreed text. There is a very different reading by the Home Office. Is it just that they have not wrestled with the detailed minutiae that flow from the Good Friday agreement with regards to this issue, or is it that they have but they have simply misunderstood it?

Emma DeSouza: In my view, this began with the Home Office doing what the Home Office does: denying an application. Then the issues came out around the Good Friday agreement. It is important to bear in mind that, up to 2012, the people of Northern Ireland and Irish citizens could access their EU family reunification rights. There was a change in Home Office policy in 2012 in relation to the McCarthy case, where more of a restrictive hostile environment policy was rolled out across the United Kingdom without any consideration for Northern Ireland having a unique set of rights. Really, it was Home Office policy in the beginning.

This, as I would consider it, fabricated distinction between identity and citizenship in article 1(vi) was created and invented by the Home Office



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as a means to justify its policy. It is disappointing to me to see that that interpretation is now being run with in some Government circles and that that is the position the Government are maintaining. However, previous UK Government interpretations do not support this idea that there is a distinction between identifying and being accepted legally as Irish or British, or both.

Looking at some of the previous interpretations, take, for example, the Northern Ireland Human Rights Commission's report on the Bill of Rights recommendations. They say it is the right of the people of Northern Ireland to hold British or Irish, or both. We can also look at the Attorney General Lord Goldsmith's review in 2008, which stated, "The Good Friday agreement confirms the right of the people of Northern Ireland to take either British or Irish citizenship or both". Previous interpretations on the nidirect website stated, "The people of Northern Ireland can choose to be British citizens, or Irish citizens or both. If they choose to be both British and Irish citizens, this means they have a dual citizenship". The definition was replaced on the nidirect website after our case to align with the new interpretation of the Government.

I would also point to then Prime Minister Theresa May's statement in 2019 where she stated that the birthright to identify and be accepted as Irish or British, or both, was absolutely central to the Good Friday agreement. She committed to an urgent review that, unfortunately, we did not get to see.

Q88 Chair: Yes, I am not sure what its status was. On this revocation point, if I understand you correctly—please correct me if I am wrong—you would prefer to see an opt-in to British citizenship rather than an opt-out, but that would then have to apply to everybody born within Northern Ireland, unless you were some sort of soothsayer who could work out which side people were going to jump on.

It is not for me to prejudge Home Office policy, but, if somebody is born in Northern Ireland, an integral part of the United Kingdom, by definition they are going to be a citizen of the United Kingdom. If they decide to revoke that and assert solely an Irish citizenship, they are perfectly entitled so to do. It would not be practical politics or respectful of the integrity of the United Kingdom to effectively say, "Everybody in Northern Ireland would in essence be born stateless until they reach the age of majority, when they could then take the decision about which citizenship they wish to assert". They may wish to assert both; they may wish to assert only one. Just in practical terms, that would not work, would it?

Emma DeSouza: I am certainly not recommending any changes that would result in statelessness. Better legal minds than I have already come forward with legislative recommendations that avoid statelessness and the problems you are now noting in terms of retention of citizenship and ensuring there is no detrimental treatment.



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I would make the case that there are legislative solutions, if we put legal minds to work to find them. Northern Ireland is already a place apart from the rest of the United Kingdom, in the sense that it is the only part of the United Kingdom where the Good Friday agreement applies. It is the only part of the United Kingdom where the right to be accepted as Irish or British, or both, and parity of esteem between both communities is applied. It has to be seen in that context.

I would commend to the Committee the report done in 2020 by the Northern Ireland Human Rights Commission, in which Alison Harvey put together legislative recommendations that addressed the concerns you are now raising. We just need to have a little bit of imagination in finding a way that is going to be consistent with the Good Friday agreement, because the current policy of expecting an Irish citizen to go through a bureaucratic, costly and often traumatic process is not consistent with the Good Friday agreement and creates discrimination for Irish citizens in Northern Ireland. As an Irish citizen in Northern Ireland, I cannot access the same rights as other Irish citizens in the rest of the UK.

Q89 Ian Paisley: Thank you, Ms DeSouza, for your attendance and for your evidence. I would just make the point that the Belfast agreement or Good Friday agreement applies all across both islands, east to west and north to south. It has implications for both Governments, and it does not just apply to Northern Ireland. It does on some specific points; maybe that is what you are really trying to say. It only has effect on certain points, but certainly the peace process that it was part of applies to all of the UK. It should not really be partitioned off to just one wee bit of it.

That aside, can I ask you about your perception of how many other people are in the same situation you find yourself in today? Have you any evidence of that or a view on how far this reaches?

Emma DeSouza: Thank you kindly for that question and for your comment. I take note of what you said in reference of the Good Friday agreement. Of course, today we are discussing citizenship and identity, and passport processes, in Northern Ireland. In that regard, article 1(vi), the birthright provision of the Good Friday agreement, only applies to Northern Ireland, and that is indeed what I am referencing.

In terms of how many other people are affected, I welcome that question, because often I am asked to describe why I pursued a case for half a decade through the courts at such personal cost and hardship. Often I do not have the opportunity to share it, but the motivation for me was very much the other families affected by this Home Office policy.

I remember clearly the first time I spoke at a public event, at which I was very nervous. Afterwards, I was struck by how many people in the audience shared that they had gone through a very similar process and how hard it was for them. I recall one family that had already been through the courts, like myself, but after three years and with three young children had to then give in and renounce British citizenship,



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because they could not afford the emotional, mental and financial cost of continuing through the courts.

I would often meet on a regular basis with other families that were affected. These families were not just Irish families. I met with people from the Shankill who went through the process of renouncing British citizenship, which was the only identity they felt they had. It was particularly difficult for me to see someone in that position having to renounce British citizenship in order to keep their family together. There was a very negative impact on many of these families.

I took many phone calls from people in tears, stressed about the emotional impact it was having on them. I know many who simply left and moved across the border. I would be lying if I said I had not considered that myself at one point, because I would be able then just to access my rights and we would be able to live in peace.

But I was aware that many families were waiting on the outcome of our case; I was aware that we were fortunate that we had secured political support and that we had secured media attention. It became important for us to see this through to a point where other families could benefit. Since the changes to the immigration rules, we know many families that have been able to access their rights, which of course made everything very much worthwhile.

We cannot understate the emotional impact that this policy can have on people. Northern Ireland has a very complicated history. Its issues around identity are very personal and they cut across religious, political and cultural lines. For Irish citizens to have to first declare themselves as British and then to renounce that to become Irish is, in my view, discrimination.

Q90 Ian Paisley: I do accept—you are absolutely right—that there is bound to be an emotional drain and stress on people from any of this. I certainly would not want to take away from or discount that.

Turning to the issue, you have given us some views and you have talked to people. Is there any way you can quantify the amount or do you just not know in terms of numbers? In his case, William Hay has pointed to a census figure of 40,000 people and growing. Have you any idea how many thousands or whatever this would affect?

Emma DeSouza: It is very difficult to get figures. For example, I would love to have figures on how many people in Northern Ireland have renounced British citizenship, but I have not been successful in obtaining that information from the Home Office. If anyone can try to obtain those figures, I would be very grateful, to give us some idea of how many had to go through that process to begin with.

In terms of how many people this can affect, I do not have figures in the same way that Lord Hay has. I can point to the fact that, if we look at the data we have—for example, that there were over 830,000 Irish passport



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holders in Northern Ireland just between 2010 and 2019—it is safe to say that there are plenty of Irish citizens in Northern Ireland. When the decision was made by the Upper Tribunal last October, a lot of people were very surprised to learn that the British Nationality Act was still fully applicable in Northern Ireland and that they were considered British citizens.

There was reporting in thejournal.ie where they had obtained a freedom of information request through the Department of Foreign Affairs in Ireland and found that they were swamped with Irish citizens contacting the Irish Government to say how upset they were at the fact that they were now considered British citizens. There was also confusion as to then what their rights were, because it is safe to say that a lot of people in Northern Ireland will be more familiar with the text of the Good Friday agreement than they will be with the legislation in the British Nationality Act 1981.

Q91 Ian Paisley: The converse is also true and probably equally confusing. There are probably tens of thousands of people, like William Hay, who have had to get an Irish passport and do not actually feel Irish, but feel British, so there is certainly confusion.

In terms of the passport issue, just for clarity for me, are you entitled to both a British passport and an Irish passport as you currently stand?

Emma DeSouza: Yes, under British legislation, I am entitled to a British passport.

Q92 Ian Paisley: It is your choice to take either a British passport or an Irish passport. You make that choice under the regulations. Is your case of renunciation a “small p” political point, or is it a point of principle that you are trying to establish about the renunciation of Britishness while you continue to live in the United Kingdom?

Emma DeSouza: Of course, you do not have to be British to live in the United Kingdom. As an Irish citizen, I have the same right as a British citizen in the United Kingdom; I do not require British citizenship in order to access those rights. Conversely, I live in County Fermanagh, I work in Dublin and I pay my taxes to the Irish state.

What you are talking about there in terms of renunciation is discrimination for an Irish citizen in Northern Ireland to have to go through any bureaucratic process that is prohibitive and requires them to give up their freedom of movement for six months, pay a fee of £372 and prove that they maybe have an identity that they do not identify with in order just to be who they are.

The renunciation process has to be addressed. A British citizen in Northern Ireland does not have to go through a similar process in terms of being accepted as British, so that is where the discrimination comes between the two main communities. That is what I am trying to address. Plus, I know many families who, honestly, were in tears at having to go



through the process. You have to take in the historical significance and the trauma that might come from families having to declare themselves British just to not be British, in order to be accepted as who they are.

Q93 Ian Paisley: Do you accept that, if you are a person in your circumstances taking a similar case from, say, Liverpool, Leicester, Scotland or Wales, you would be in the exact same position and, therefore, the discrimination that you point out actually applies to every citizen of the United Kingdom?

Emma DeSouza: No, I would disagree with that, because someone in Liverpool, Wales or Scotland does not have the Good Friday agreement birthright to be accepted as Irish or British, or both.

Ian Paisley: If they are born with descent from parents who are Irish, whether Northern Irish or Republic Irish, they do have those rights.

Emma DeSouza: They do not have those rights unless they are born in Northern Ireland. Annex 2 of the Good Friday agreement states that "the people of Northern Ireland" under article 1(vi) refers to a person born in Northern Ireland to at least one parent who is a British citizen, an Irish citizen or settled, so article 1(vi), which relates to the birthright provisions, explicitly only applies to those people born in Northern Ireland to an Irish citizen, a British citizen or a settled person. So no, they are different.

Q94 Ian Paisley: Let me clarify. My question then is about a person in your circumstances, but living in Liverpool, Leicester, Scotland or Wales. They would face the same, as you call it, discrimination if they wanted to renounce their citizenship from there, even if they were born in Northern Ireland but chose to make their home in Leicester, Liverpool or wherever.

Emma DeSouza: There are two things there. First, you are saying, "They were born in Northern Ireland, but they live in Leicester". Yes, if they were born in Northern Ireland, they come under the Good Friday agreement, so they would face the same issues as me. However, if they were born elsewhere in the United Kingdom, they are not in the same position as I do. They do not face the same discrimination as I do, because the discrimination I am talking about is discrimination in regard to the parity of esteem principles and the birthright provisions of the Good Friday agreement.

Q95 Ian Paisley: I have not mentioned where they are born. My questions have been very specific about living in a location. I get that point; I understand the article. I am just trying to be clear that the same discrimination would then face them that you believe has faced you.

Emma DeSouza: Yes, if they are a person of Northern Ireland under the terms of the Good Friday agreement, regardless of where they live in the United Kingdom, they face the same barriers as I do.

Q96 Ian Paisley: On that basis, the Government may, from a legal point of



view, seek to argue then it is not discrimination, because it affects people living in all parts of the United Kingdom.

Emma DeSouza: It is discrimination because, again, regardless of where you live in the United Kingdom, if you come under the remit of the Good Friday agreement and article 1(vi), as in you were born in Northern Ireland, you are covered by the Good Friday agreement regardless of where you live in the United Kingdom. Therefore, it is still discrimination, because a person from Northern Ireland who is Irish and who identifies as Irish cannot be accepted as such under the terms of the Good Friday agreement following the current processes. I would just make the point that, yes, they are the same if they were born in Northern Ireland, but it is very specific in terms of who the Good Friday agreement covers.

Q97 **Ian Paisley:** Thank you very much. Your evidence has been very clear and helpful. Are you aware of anyone else pursuing legal action similar to yours? Could you give us a wee bit more in terms of how this then affects your husband or your partner, because he is in a completely different situation from you altogether, is he not?

Emma DeSouza: Yes, bless him. He is American. I do not think he knew what he was signing up for when he married an Irishwoman in Northern Ireland and moved here. Do I think there is going to be further litigation? Yes, I think there will be further litigation. It will not be me. I have served my time, but there is a risk of further litigation, especially after June, because we will then see a diminution of rights. The right to access EU family reunification is going to close then, with the closing of the EU settlement scheme.

There is also the possibility that someone may step forward and just go to the High Court to try to get a declaration that they are Irish and challenge specifically the British Nationality Act 1981.

It is important to note that our case started as an immigration case. It was not a case that was specific to the British Nationality Act. When we married in 2015 and began the immigration process, we did not do so with the anticipation that we were going to go to court and do some high-profile court case that would eat into the first five years of our marriage. There is space for more litigation, which is why it is very important to try to get ahead of that litigation and put forward recommendations in terms of trying to address the issues before they come back before the courts.

My husband, much like me, was not politically active in 2015. We knew nothing about immigration or citizenship legislation, so it has really been a crash course. He suffered some of the worst hardship in terms of our case, in that the Home Office retained his passport for the first two years and he had no freedom of movement. He had to give up his work as a musician because he could not tour. He could not get a driving licence. He did not have his identification.



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That became very difficult for us when two of his great uncles passed and we could not return to the US. It became extremely hard when his grandmother fell ill and we requested that the Home Office return his passport to allow him to fly home to see his grandmother before she passed. The Home Office denied that request. I had spoken to the US embassy to try to get an emergency passport to fly him home on, but the US embassy said he would require permission from the Home Office to enter back into the United Kingdom. The Home Office denied that request and he never got to see his grandmother before she passed. They couriered his passport back to him after it was reported in the press that they had refused him permission to see his grandmother on her deathbed.

Certainly, my husband, Jake, suffered some of the most difficult hardships during the court case and that, in a way, also became a motivation for us as a family, because we did not want to see anyone else have to go through that kind of loss. Now he is applying for his Irish naturalisation and we live in County Fermanagh. It is beautiful out here and our case is over, so he is in a much better space.

Chair: I see from your Twitter feed, Emma, that you have been walking in the hills this morning, so preparing you with the beauty of Fermanagh for this morning.

Q98 **Stephen Farry:** Good morning to Ms DeSouza. It is probably worth referencing the distinction that Emma is quite rightly setting out between the very specific GFA provisions and Irish people who may be born in Great Britain. It is accurate, but it throws up huge anomalies, including situations where brothers and sisters who may be born in different parts of the UK end up then having different entitlements. It is quite complex in that respect.

I have a couple of questions. Some of these have been touched on already. How important is your right to identify solely as Irish to you and, indeed, to other people, who may well be people who reside in Northern Ireland?

Emma DeSouza: It is fundamental part of who I am, so thank you for that question. I cannot say in 2015, when I took the position in our case, that I had thought much about my identity in a philosophical sense, but I very quickly had to start thinking of it. I was raised Irish. It is fundamental to who I am. I have only ever travelled on an Irish passport and I identify myself as Irish.

In going through the process of the court system, I had to then outline for the courts all the ways in which I was Irish, in order to prove that I was in fact Irish. This included everything right down to my grandmother reading me Irish fairy tales as a child, to me doing Irish dancing and to me doing Irish language for GCSE. These were all relevant and considered evidence to the courts that I actually identify as Irish.



I often joke, “What if I had chosen to do French for GCSE? Would I not have been able to establish that I truly am an Irish citizen?” The whole process was really quite difficult to put into words, in terms of having to defend my Irishness and having to ascertain and prove to many people that I was. Through the process of the last five years, I have had to defend that to many people.

In terms of my family background, my own family represents the complexity and sensitivity of identity in Northern Ireland. My mother is Irish. My father is British and he is actually active in the British Army. Of my brothers and sisters, some have Irish passports, some have Irish and British passports and some have British passports. I am proud to say that my family represents that complexity of identity in Northern Ireland. As for me, I developed a very strong Irish identity and I felt that, as it is protected under an international treaty, I should not have to compromise who I am for an easier route.

Q99 **Stephen Farry:** Let me pick that up in terms of supplementary points. The Good Friday agreement was a carefully balanced settlement, which respected the whole complexity of identity in Northern Ireland, as you outline, and people’s different identities in that respect.

If we ended up in a situation—hypothetically, I suppose, at this stage—that there was to be constitutional change, again as provided for under the Good Friday agreement, presumably you could envisage a situation where this current debate, which is about someone who identifies as Irish having to battle for their rights, in theory could be manifested as a mirror image, where people who see themselves as solely British would also be fighting for their rights.

Can you elaborate upon that and clarify this? This is not solely an issue of people who identify as Irish, but the issues that you are raising, albeit theoretically at this stage, could apply in reverse to people from Northern Ireland who solely identify as British.

Emma DeSouza: I am really glad that you raise that point, because it is something that I often try to articulate. Putting into domestic law now the birth right to be accepted as Irish or British, or both, protects not just Irish citizens in the here and now, but it acts as a safeguard and protection for British citizens in the event of constitutional change.

At the moment, if there was a united Ireland, British citizens would be vulnerable in one to two generations to having their British citizenship undermined, because under the British Nationality Act 1981 they would then be resident and born outside the United Kingdom.

There is uncertainty in terms of whether the current legislation would protect British citizens in the event of constitutional change. No, it would not and that is why it is necessary that we bring forward substantive legislative changes that protect everyone’s right in Northern Ireland. The Good Friday agreement does not end in the event of constitutional change. These rights are meant to continue and we need to safeguard



them to ensure that, in the event of constitutional change, everyone's right continues to be protected.

I remember the first TV interview I did. I was caught off guard on Sky News with this question at the end around a united Ireland, because I had never passed comment on it. They asked me about the eventuality of a united Ireland and I said that, in the event of a united Ireland, I would fight just as hard for someone with a British identity to retain that right, because equality is part and parcel of the Good Friday agreement and it is really important that we address that in the here and now.

Q100 Stephen Farry: The final point is probably fairly brief. The Good Friday agreement provisions around identity are obligations for both the UK and the Irish Government as to a joint set of commitments. Can you briefly outline what your understanding is of the Irish Government's interpretation of, in particular, article 1(vi) of the agreement? Do they agree with the Home Office interpretation or take a different view on the matter?

Emma DeSouza: They do not agree with the Home Office interpretation. The then Taoiseach Leo Varadkar stated quite publicly that the British citizenship legislation is out of step with the Good Friday agreement. The Irish Government have been clear that any attempt to create a distinction between identity and citizenship in the Good Friday agreement is a misreading of article 1(vi) and that it is incorrect to try to apply that kind of interpretation.

In the aftermath of our case, which has highlighted these issues, we have two co-guarantors of an international treaty holding two different interpretations of a fundamental provision. That is going to have to be ironed out.

Q101 Mr Goodwill: I guess you will be aware that, following the Surinder Singh case, while we were members of the European Union, EU citizens resident in GB did not have to meet the rather onerous requirements for income and language tests, et cetera. Indeed, a number of GB citizens tried to establish that they were resident in the Republic of Ireland or in another EU state in order to dodge those requirements, some of which were subsequently found out to be fraudulent attempts.

In your own personal case, for a spouse visa, were there any practical implications that meant that, by applying as an Irish citizen, you could meet the requirements as opposed to applying as a UK citizen? For example, did your salary meet the requirement? There were probably not language problems; the Americans speak something that can be roughly described as English. Was there a practical reason why you wanted to apply as an Irish citizen or was it because of your identity and your wish to identify as Irish?

Emma DeSouza: There are no practical barriers to us applying for a UK spouse visa, although I would like to highlight that, for many people, it is a significant barrier. The UK's domestic spouse visa route is quite



bureaucratic, onerous and prohibitive for many people. I would love to see reform in that regard, considering that it restricts British citizens in Northern Ireland from accessing family rights.

In our own case, this was entirely based on the fact that I am an Irish citizen. It is the only identity I have ever held. It is the only passport I have ever held. We were cautious in the beginning going through an immigration process and went to a solicitor from the outset. I went to a solicitor and I said, "I am an Irish citizen. I want to stabilise my husband's status in the United Kingdom". I was then told to apply for the EU route because I am an EU citizen and that is the process we went through.

We did not expect there to be any issues at all. I expected that, as an Irish citizen in the United Kingdom, I would be able to access the same rights and entitlements as other Irish citizens in the United Kingdom. The response from the Home Office that denied that right came as quite a shock to me. I clearly remember getting the letter stating that I could not access my rights as an Irish citizen until I first renounced British citizenship. I turned to my solicitor and said, "Hold on a second; I am not British". I thought the Good Friday agreement gave me the right to be accepted as Irish or British, or both.

In 2015, my understanding of the Good Friday agreement was very limited, because I was not politically active. I had spent a number of years travelling abroad and was, like many young people, quite disenfranchised from Northern Irish politics. The crux of my understanding was that I had the right to be accepted as Irish and that was the starting point of our case. We thought it was just a clerical error and that, once we went to the appeal process, it would be quickly overturned.

Q102 **Mr Goodwill:** If you had been resident in the Irish Republic, France, Belgium or somewhere, you would have not had any of these problems, even if you had conferred British citizenship, despite the fact you were an Irish passport holder.

Emma DeSouza: Yes, certainly. Many people do in fact move either across the border or to another part of the EU in order to access their rights, instead of going through either the process of renunciation or facing years in court, like us.

Mr Goodwill: In some cases they give the impression they have moved when actually they have not. There have been a number of cases in which I know the Home Office has been keen to check with people.

Emma DeSouza: There are also many genuine cases where people have had to uproot their entire lives in order to access rights. I do not find that anyone in Northern Ireland should have to leave their home in order to access their rights as an Irish citizen. That in itself also undermines many



of the parity of esteem and equality policies of the Good Friday agreement.

Q103 **Mr Goodwill:** Absolutely—I could not agree more with what you have just said. In terms of the automatic conferral of British citizenship for persons in Northern Ireland, aside from those relating to the settlement scheme highlighted by your own case, what other practical difficulties are caused by conferring British citizenship on an individual who wishes to be treated as Irish only?

Emma DeSouza: There are some other instances. For example, we have the access to the European health card. The online registration process states that, if I want to apply for a European health card, I can only do so if I have actually renounced British citizenship. Instead, the only option for me as an Irish citizen born in Northern Ireland is to go through the UK's health insurance card. We are not 100% sure yet as to whether that will provide the same level of protections.

As an Irish citizen born in Northern Ireland, I cannot apply for the European health card because I am considered automatically British, but an Irish citizen resident in London who was born in the Republic of Ireland can, so that creates differentials between me as an Irish citizen in the United Kingdom and other Irish citizens who are resident in the United Kingdom, which then raises another issue in terms of discrimination.

Q104 **Mr Goodwill:** If we were to abolish this automatic conferral of British citizenship on people born in Northern Ireland, do you think there would be a large number of people who might rather resent that and feel that their right to be British is just as strong as your right to be Irish? The location of the birth is probably the only fact that you cannot really argue with.

Emma DeSouza: If you are going to tie the birthright provisions of the Good Friday agreement to location, and to the current constitutional status of Northern Ireland within the United Kingdom, following that logic, that would mean that, in the event of a united Ireland, everyone should be then considered automatically Irish first and foremost and British second, but they can identify in some fanciful way as a British citizen.

It does create issues when you try to tie these birthright protections to the constitutional status of Northern Ireland within the United Kingdom at present, because these rights are meant to continue in the event of any constitutional change. I would caution trying to attach these rights to the constitutional status of the United Kingdom.

In terms of ensuring that anyone with a British identity does not experience any sort of detrimental treatment or feel that their rights are being impacted, there are solutions currently available in that report from the Northern Ireland Human Rights Commission, which suggest ways that you could ensure that anyone in Northern Ireland who is a British citizen



is still a British citizen. The recommendation is that they are actually still born British and their parents have an ability then to elect whether their child will be British or Irish. Then that child, once they are of age, can also make a free election as to whether they are British or Irish.

It is about creating a process where there is more choice, more fluidity and more options for people to ensure that they have equality between the two main communities. That is just one set of recommendations that has come forward. If you were to bring together a set of great legal minds, they would find a solution here that ensures that any concerns over statelessness or retention of British citizenship can be adequately addressed.

Q105 **Mr Goodwill:** Your view is that the parents should basically make the decision on the citizenship of the new-born baby rather than the UK Government.

Emma DeSouza: I am just pointing out one recommendation that has come forward from Alison Harvey, who is a barrister in the area of citizenship legislation. That is her recommendation. It is in the Northern Ireland Human Rights Commission report and with that she suggests a number of other recommendations, in terms of the right of abode and addressing other concerns. There is a raft of recommendations in there that I would highly recommend going through. They do show a creative way to address some of these issues. It will not go far enough for some people, but it is certainly a lot better than what we have at the moment.

Q106 **Fay Jones:** Good morning, Ms DeSouza; it is nice to meet you. Thank you for joining us. We have touched a bit on this, but I wanted to ask for your reaction when the UK Government announced in the New Decade, New Approach document that they would make changes to family migration and reunion, which is something that your case highlighted. What was your reaction to that?

Emma DeSouza: In many ways, it was a complex reaction, because on the one hand it was just such an elation. We were so delighted to see a positive legislative change and we knew that this was going to have a positive impact on families across Northern Ireland. Families who are British and Irish would now be able to access their rights on an equal basis. We were inundated with families who now are able to be reunited and the feeling of that is hard to put into words.

I was speaking to a solicitor recently who had a client, an elderly man who had no other way to stay in Northern Ireland with his family, who was then able to access this route in terms of retaining family reunification rights as the father of a child here in Northern Ireland. We are seeing a lot of people benefit from the changes and it is always positive to see a positive impact on families. Certainly, when you are dealing with the Home Office it is not too often that you get a positive outcome.



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It also addressed only one aspect of our case, because our case began to highlight this lack of legislation around the birthright provisions in nationality law. The changes to the immigration rules came two weeks before we were due in the Court of Appeal, which had the negative impact of resulting in substantial fees for us as a family because we were so close to the court date.

During our case, which spanned five years, we were defending a positive outcome in our favour for four of those five years, in that the First-tier Tribunal had ruled in our favour and cited that the people of Northern Ireland have a birthright to choose to be Irish or British, or both. The constitutional nature of the Good Friday agreement had to have relevance here.

We were defending that judgment and then, in October 2019, the Upper Tribunal ruled against us. The next stage from that was the Court of Appeal and we anticipated that this case would end up in the Supreme Court. We were keen to see these issues aired in a way that would address the wider concerns around citizenship legislation, so we would have maybe, in one way, liked to have seen that case continue, but at the same time we were very relieved to not have the burden of having to go through the courts any more and to see a positive change for families across Northern Ireland. It was a complex mix of emotions when that solution came forward.

Q107 **Fay Jones:** Do you see any difficulties arising when this scheme closes later this year or are you concerned about that?

Emma DeSouza: Yes, there certainly will be difficulties, because under the withdrawal agreement there can be no diminution of rights, and there will be a diminution of rights now when the scheme closes. That is going to open up difficulties for the Government in terms of people of Northern Ireland now losing a right in relation to Brexit. That could result in further litigation.

Fay Jones: That is helpful. Thank you very much.

Q108 **Mr Campbell:** You are very welcome, Ms DeSouza, to the Committee. At the start of your submission to us, you indicated some complications that faced some people applying for the Irish passport process.

I was looking at the figures a few days ago. In 2019-20, about 100,000 applications were processed for Irish passports from within Northern Ireland. I do not expect you to know all those people who applied, but surely the vast majority of them were a simple and straightforward application form at the post office filled in, with the necessary fee supplied and the passport received.

Emma DeSouza: Good morning, Mr Campbell, and thank you for your question. In the beginning of my remarks, I was pointing out the difference between a person of Northern Ireland under the Good Friday



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agreement and a person born in Northern Ireland who then does have an entitlement to Irish citizenship.

If you are born in Northern Ireland and you have a parent who is an Irish citizen, you are entitled to Irish citizenship. I was pointing out that that group of individuals, who then have the right to apply for an Irish passport, such as me, is not the same as the cohort of people, such as Lord Hay, who were born in the Republic of Ireland and reside in Northern Ireland, in terms of looking at naturalisation processes.

I was highlighting that people who are resident in Northern Ireland can obtain British citizenship through naturalisation, which is prohibitive and very costly. It is a process that needs to be reviewed, but they have a number of routes to naturalise as a British citizen. They can do so by descent, by marriage and just based on residence. For example, a person born in Dublin but who resides in Northern Ireland, who has resided there for five years, can naturalise as a British citizen.

However, in comparison, a person born in London who has resided in Northern Ireland for 30 years cannot naturalise as an Irish citizen. They have no route to Irish citizenship. They cannot get an Irish passport, in the same way that anyone born in Europe who resides in Northern Ireland, who is not married to an Irish citizen, cannot apply for Irish citizenship. They have no options. While the UK naturalisation process is very onerous, bureaucratic and costly, in many ways, the Irish naturalisation process in Northern Ireland is even more restrictive.

Q109 **Mr Campbell:** Just to simplify this, I do not want to personalise it, but someone in a similar position to you at the moment, in 2021, can apply for and get an Irish passport or a British passport. Someone in a similar position to Lord Hay cannot get a British passport, but can get an Irish passport. Is that right?

Emma DeSouza: That is incorrect, because Lord Hay can get a British passport through naturalisation as a British citizen. They can do so through residence, through descent or through marriage.

Q110 **Mr Campbell:** I am talking about going along to your local post office, receiving an application form for a passport, filling it in, having the necessary payment passed over at the counter or in the post, and then, after a period of time, receiving the passport in the post. You can do that for either Irish or British passports; Lord Hay cannot.

Emma DeSouza: Yes, and that is because I come under the remit of the Good Friday agreement. Annex 2 of the Good Friday agreement defines that anyone who is born in Northern Ireland to an Irish, British or settled parent is then covered by article 1(vi) of the Good Friday agreement, whereas someone such as Lord Hay does not come under the remit of the Good Friday agreement. I want to make clear that this issue is not a Good Friday agreement issue, but a naturalisation issue in terms of Home Office policy.



I want to make clear that, yes, there is a cohort of people, such as Lord Hay, who are resident in Northern Ireland who have to go through a prohibitive and costly process to become British citizens, but there are, equally, tens of thousands of EU citizens or British citizens resident in Northern Ireland who have literally no route to Irish citizenship. It does not exist for them unless they are married to an Irish citizen.

In many ways, someone such as Lord Hay does have an easier process: at least there is an option for someone like Lord Hay to become a British citizen. For someone born in London who lives in Northern Ireland, there is no option for them to become an Irish citizen, unless they are married to an Irish citizen.

Q111 **Mr Campbell:** I am talking about the acquisition of passports and you have answered that fairly clearly. You have said that you are very proud of your Irish roots and the fact that you have an Irish sense of identity, et cetera. You want to express that in terms of citizenship and an Irish passport.

In the way that we talked earlier about convenience of passports, would you at any stage feel it appropriate, if the circumstances were right, for convenience's sake, to hold a British passport, but not in any way desert or diminish your Irish roots and your Irish sense of citizenship? Do you feel that you would do that or would you simply not want to or prefer not to?

Emma DeSouza: That question was put to me during our case, in that, if I wanted to make things easier for myself, I could have applied for a British passport and gone through the UK spouse visa route. I would say that, considering I did not take that route, it is clear that I personally would not opt to take on a British passport.

Q112 **Mr Campbell:** That is not what I meant. I understand that. You are a current Irish passport holder, but in addition to that if you found it convenient, in the way that we were talking earlier about the convenience of Irish passports for people who would prefer to have a British one, would you feel the need to have one in addition—not diminishing your Irish citizenship and not taking away your Irish passport? Do you feel that you would want to or could foresee circumstances where you would acquire a British passport in addition to what you have at the moment, or would you rule that out?

Emma DeSouza: As I was just saying, Mr Campbell, if I wanted to obtain a British passport for convenience, surely the time to do that would have been during our case. For me, I would not choose to take up British citizenship or hold a British passport for any reason, and that is simply because I am Irish. It is who I am. I cannot change that and I would not do that for convenience, because, for me, my identity is a fundamental part of who I am.

I do not believe in taking up another identity or citizenship for ease or placation. As has been quite clearly seen in my determination to defend



my Irishness, I am not going to obtain British citizenship or a British passport after the fact. For me, I cannot do so because I do not see myself as British.

Q113 Mr Campbell: You absolutely rule out a British passport under any circumstances, even as an addition to the Irish one you have. You spoke about the sense of Britishness of people like Lord Hay and others. I do not want to keep personalising this, but we have the two of you as witnesses. You spoke about the issue of maintaining that citizenship, Britishness or Irishness, beyond any potential constitutional change. You referred a couple of times to that potential constitutional change being a united Ireland.

Would you accept that the reverse would be true: that, if there were constitutional change in the other direction, in that Northern Ireland, not just at the moment, but in perpetuity, was within the United Kingdom, never to be revoked, changed or altered, your Irishness should be and could be cherished within that context, in the same way as you want to do it if there was constitutional change towards an irrevocable united Ireland?

Emma DeSouza: Certainly, I would wish for that to be the case—for my Irishness to be cherished, celebrated and respected in Northern Ireland presently. But, as an Irish citizen who had to go through this process, and as an Irish citizen who cannot be accepted as Irish without going through a costly, prohibitive and bureaucratic process in order to be accepted as who I already am, I would say that I do not feel that my Irish identity or culture is respected in Northern Ireland at present.

I would love to see that changed. If there can be legislative changes brought forward that better respect the Irishness of people in Northern Ireland, that would certainly be a bonus. It is long overdue that we have better embedded equality principles in terms of reflecting on the Good Friday agreement, the progress or lack thereof over the last two decades, and ensuring that Irish and British, and both, can be equally respected within Northern Ireland. I hope to see that happen soon.

Mr Campbell: Thank you, Ms DeSouza. All I would say is that you share much in the way of a sense of frustration at a sense of identity not being manifested in Northern Ireland. I feel that in my Britishness at the moment and have done for many years. Thanks anyway.

Q114 Claire Hanna: I want to thank you for your evidence, and, more broadly, for your efforts in this area and for continually synthesising very complex legal issues and issues around identity for a wider audience.

I appreciate in particular that you have referred this morning to the wider context, atmosphere and processes around immigration and those who do not fall under the remit of the Good Friday agreement, in terms of both that culture of “no” from the Home Office and, as you have referred to, the very difficult position of many people living in this part of the island of Ireland, who have no clear route to Irish naturalisation in a way



that they absolutely should have.

The most high-profile cases where this issue has arisen are, like yours, around immigration. I know, in your answers to Fay Jones and Robert Goodwill, you maybe touched on this. Are there other issues that you think may be driving people to go through the process that you challenged and that we should be alert to in this inquiry, in terms of, I suppose, differential rights?

Emma DeSouza: In many ways, we see these issues arising when a person of Northern Ireland tries to rely on their rights as an Irish or an EU citizen. Certainly, with Brexit, we envision that there will be more cases and more complexity arising with the changes, in terms of ensuring that the people of Northern Ireland can retain in full their EU citizenship rights.

It is also worth highlighting that there already is differential treatment in Northern Ireland, in that an Irish citizen in Northern Ireland will retain different rights than a British citizen in Northern Ireland. In an ideal world, I would have liked to see special status for all the people of Northern Ireland to ensure that the principles of parity of esteem and mutual respect can be embedded in terms of the Brexit process, but I was not lucky enough to see that happen.

The issues that we can see coming forward are going to be back in immigration. There will be cases probably coming forward in regard to family reunification rights. There could also be a case coming forward in terms of discrimination and not being able to access the EHIC card. There is a lot of complexity around accessing the health cards at the moment. You can have it if you have renounced British citizenship, but you cannot have it if you have not renounced British citizenship. Then there are the Irish Government's options here as well.

People are quite confused about it. I keep getting a number of inquiries from citizens who do not understand why they cannot, as an Irish citizen, apply for the EHIC card like other Irish citizens in the UK. I foresee there being cases coming forward in regard to EU citizenship rights. That is another reason why it is important to get ahead of that.

Q115 **Claire Hanna:** Following on from this, do you have a view on those who have been in a similar situation to you, who have renounced their British citizenship, following the conversation you had with Gregory Campbell, in order to access family reunification, but who wish to reacquire it for whatever reason—perhaps those whose identity is both Irish and British? Are you aware of people who are in that situation? As I understand it, they then face high costs and I believe that, ultimately, the decision is at the discretion of the Home Office as to whether they can reacquire it. Are you aware of people in this circumstance?

Emma DeSouza: Yes, I am aware of people in those circumstances. There are people affected by this Home Office policy all across Northern Ireland. I recall clearly one day getting a taxi into town and the taxi



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driver said to me, "I know who you are and I went through the renunciation process". He was a Unionist who had a British family and a British identity, and he renounced his British citizenship in order to keep his family together. He said it caused quite a lot of upset within his own family that he went through that process. He said that it would be all grand because he would just reapply for his British citizenship. I did not have the heart to tell him, "Actually, it will be very difficult to reapply for your British citizenship".

It is up to the discretion of the Home Secretary in terms of granting citizenship back to those who have renounced. Often there is concern that, if you have done so in a way to access rights, it might undermine you being able to retain it again. There is also a cost of over £1,000 in order to try to reclaim your British citizenship.

Now that the Home Office has acknowledged that the policy of requiring people to renounce British citizenship in order to access rights was wrong, it is imperative that the Home Office brings forward an option and a route for people in Northern Ireland who have renounced British citizenship to now reclaim it and to do so in a way that is free, streamlined and accessible. I would love to see that happen.

Chair: We have covered a lot of ground, and both our witnesses have given us food for thought. My assessment of this morning is that further work needs to be done and further consideration given to these issues. We will continue to explore those issues during this inquiry.

On behalf of the Committee, can I thank both of our witnesses this morning, Lord Hay and Ms DeSouza, for finding the time to address us? I have certainly found it very useful and very interesting. Thank you very much indeed.

Lord Hay of Ballyore: Can I very quickly thank you, Chair, and your Committee for your kindness?

Chair: It is an absolute pleasure, my Lord. Thank you.

Emma DeSouza: Thank you also.

Chair: Thank you, Emma.