

CAJ Briefing Note on Irish citizens not born in Northern Ireland, obtaining British citizenship and a British passport through residence in NI.

In the context of the current inquiry by the Northern Ireland Affairs Committee into 'Citizenship and Passport Processes in Northern Ireland' there has been discussion over Irish citizens who were not born in, but are now resident in, Northern Ireland obtaining British passports.

This discussion engages the separate questions in nationality law of acquisition of citizenship on the basis of birthplace (on which the respective 'birth right' to British or Irish or both citizenship under the 1998 Belfast/Good Friday Agreement is restricted) to that of acquiring citizenship through a process of *naturalisation* on the basis of residency in a territory.

It is also important to distinguish the question of obtaining a passport with that of acquisition of citizenship (the latter being a route to the former.) This briefing note clarifies the route to British citizenship (and therefore a British passport) in these circumstances, the equivalent process for obtaining Irish citizenship (and therefore an Irish passport) and highlights the distinction between these policies and the 'birthright' provisions of the Good Friday Agreement. It should be read alongside the CAJ written evidence to the Committee Inquiry here: <https://committees.parliament.uk/writtenevidence/22343/html/>

Naturalisation as a British citizen

A person who was not born British or with the automatic right to British citizenship must usually go through the process of [naturalisation](#) in order to become a British citizen. You must complete this process before you are eligible for a British passport.

Some people will be automatically British citizens even if born abroad; for example if they have British parents. Other people will not have the automatic right to British citizenship, even if born in the UK; for example if their parents are migrants with temporary leave to remain.

There is a [specific route](#) to retain 'British Subject' status for persons who were citizens of Ireland on 31 December 1948 and who either made a claim to remain a British subject, or subsequently applied to become a British subject through factors including association with the UK by residence. British subject status is a type of British nationality (different to British citizenship). British subjects are entitled to hold a British passport, but do not usually have an automatic right to live and work in the UK.

A person resident in the UK who is not a British citizen and does not have an automatic right to British citizenship, will generally be required to go through the naturalisation process to become a British citizen.

Naturalisation requires a person living in the UK to meet certain [statutory criteria](#) such as;

- Five years legal residence in the UK with one year indefinite leave to remain or permanent residence
- No absences from the UK over a certain length
- Proof of English Language ability
- Evidence of good character and intention to make the UK their principal home

If the applicant is married to a British citizen they must only show three years legal residence in the UK.

[Irish citizens](#) are treated as settled in the UK for immigration purposes and so do not need to obtain indefinite leave to remain/permanent residence in order to apply to naturalise. They must meet the other eligibility and suitability requirements such as five years residence.

An application for British naturalisation currently costs; [£1330.00](#)

Citizenship and naturalisation policy is dealt with by the UK Home Office.

This is the process open to Irish citizens who were not born in NI, who are resident in NI and who wish to become British citizens. Only after becoming a British citizen will they be eligible for a British passport.

Naturalisation as an Irish citizen

A person not born an Irish citizen or with an automatic right to Irish citizenship must apply to [naturalise](#) as an Irish citizen. After they become an Irish citizen they will be eligible for an Irish passport.

There are different rules for naturalisation as an Irish citizen dependant on whether the person resides within 'the State' (of Ireland) or the 'Island of Ireland' (including NI).

A person resident in the Irish State will be eligible to naturalise after meeting certain statutory requirements such as:

- 5 years residence in the state in the past nine years including one year residence in the year prior to application
- No absences from the state above a certain length
- Good character requirements
- Good faith intention to reside in the state

British citizens are treated differently to other migrants for the purposes of proving residence, as their residence in Ireland is deemed legal or 'reckonable' automatically so they will not need to provide proof of permission to reside in the state.

A person resident in Northern Ireland and therefore on the 'Island of Ireland' but not within the Irish State is only eligible to naturalise as an Irish citizen if they are married to or in a civil partnership with an Irish citizen or can prove 'Irish associations'.

If a person resident in NI who is married or in a civil partnership with an Irish citizen wishes to apply for naturalisation they must prove residence on the island of Ireland (including NI) as a spouse/civil partner for 3 out of the past 5 years, including one year's residence in the year prior to the application. They must also meet the same suitability requirements as described above.

Irish associations are defined as related through blood, adoption by or affinity to an Irish citizen. A person resident in NI can apply to naturalise as Irish through this route but a grant under this is at the absolute discretion of the minister.

This means there is no route to naturalise as an Irish citizen through *residence* in Northern Ireland alone.

Irish naturalisation [costs](#) 175 euro for the application. If successful the applicant will be required to pay 950 euro to complete the naturalisation process.

Irish citizenship and naturalisation policy is dealt with by the Department of Justice and applications are processed by the Irish Naturalisation and Immigration Service.

This is the process that applies to a British citizen, not born in NI and resident there, who wishes to become an Irish citizen. Only after becoming an Irish citizen will they be eligible for an Irish passport.

Interface with the Good Friday Agreement

As well as the separate issue of birth rights under the Belfast/Good Friday Agreement the NI Affairs Committee has been examining the specific issue of Irish citizens not born in NI wishing to obtain British passports based on their residence in Northern Ireland.

This is provided for through the British naturalisation process detailed above. Irish citizens not born in NI, who have resided there with 5 years legal residence (or 3 if married to a British citizen) may apply for British naturalisation if they meet the eligibility and suitability requirements.

To examine obtaining Irish naturalisation as well, British citizens not born in NI who are resident in NI who wish to obtain Irish citizenship, must do so through Irish naturalisation. However this is more limited as naturalisation is only provided for if they are married or in a civil partnership with an Irish citizen or can prove Irish Associations. There is no route to Irish naturalisation through legal residency alone in Northern Ireland.

A person must hold citizenship before they are eligible to apply for a passport reflecting same. The fees for naturalisation concern the process of acquiring a citizenship and should not be conflated with passport application fees.

These laws are provided for in British and Irish nationality and citizenship legislation and are not addressed by the Good Friday Agreement (GFA) which is limited to birth right citizenship

provisions to identify as and be accepted as British or Irish or both. This birth right only presently applies to people who meet the subsequently added definition of 'people of Northern Ireland' which is defined in Annex 2 of the Agreement as:

“all persons born in Northern Ireland and having, at the time of their birth, at least one parent who is a British citizen, an Irish citizen or is otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.”

Therefore British and Irish citizens resident in Northern Ireland who were not born there, are not defined as people of Northern Ireland and are therefore not covered by the provisions of the GFA. They cannot rely on the birth right provisions of the GFA to grant them an automatic right to either British or Irish citizenship. This is only open to them through state naturalisation processes. The narrow definition of people of NI has been criticised before, for example it excludes many children of migrants born in Northern Ireland who have lived in NI their entire lives.

This issue is also distinct from the right to Irish citizenship highlighted in DeSouza, which concerns people born in Northern Ireland with an automatic right to Irish citizenship, who are covered by the definition of 'people of Northern Ireland' and therefore covered by the birth right provisions of the GFA.

The route to providing a streamlined and fair process for Irish citizens not born in and resident in NI who wish to become British, lies through amending British nationality legislation on acquiring citizenship through naturalisation rather than through application of the GFA. The naturalisation processes available to British and Irish citizens not born in and resident in Northern Ireland are complex, restrictive and prohibitively expensive. The same is true for all migrants resident in Northern Ireland wishing to naturalise as British or Irish.

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