

Irish citizens' rights at risk in a post-Brexit UK, according to a new report

The UK government has so far failed to guarantee the rights of Irish citizens in a post-Brexit UK, [according to a new report](#).

“Brexit and Irish citizens in the UK: how to safeguard the rights of Irish citizens in an uncertain future” by the Traveller Movement and authored by barrister Simon Cox (Open Society Justice Initiative and Associate Tenant of Doughty Street Chambers) reveals that many of the rights currently enjoyed by Irish citizens in the UK, such as exemptions from deportation and prohibitions on employment of foreigners, exist only because they are EU citizens and not because they are Irish citizens.

Despite press and public attention the paper found that the UK Government has failed to identify a single law where the Ireland Act 1949 operates to confer rights on Irish citizens.

The paper examines what would happen to the rights of Irish citizens under UK law, if the UK ends the special rights of EU citizens, without making new legal provision for Irish citizen. In this situation:

- The immigration status of Irish citizens arriving from outside the Common Travel Area would be unclear. There would be no explicit legal right for these people to enter, to stay, to work, and to rent private accommodation, nor any explicit legal bar on removal or deportation.
- The lack of clarity on the status of Irish citizens could make the British citizenship of their children unclear.
- There would be no explicit bar on exclusion of Irish citizens from Northern Ireland, regardless of their ties to Northern Ireland.
- Irish citizens would be excluded from cash benefits.
- Irish citizens would be excluded from non-cash social welfare, unless this would violate their human rights.
- Irish citizens may be excluded from free NHS treatment.

It is also clear from the paper that UK law allows for deportation and exclusion of Irish citizens who are not also British citizens. This calls into question the Government's rhetoric that Irish citizens and British citizens enjoy reciprocal rights, when in fact only the Irish Government has renounced the power to deport British citizens.

The paper outlines a series of recommendations to guarantee the rights of Irish citizens in post-Brexit UK and to do so with urgency. The simplest, and therefore most effective, means of guaranteeing the rights of Irish citizens after Brexit would be a general law providing that Irish citizens shall be treated as if they were British citizens for all purposes. This would give effect to the original purpose of the Ireland Act 1949.

Other recommendations include:

- The British Government should renounce the power to deport Irish citizens as the Irish Government has done for British citizens.
- The power to deprive dual British-Irish citizens of British citizenship should be removed from the British Nationality Act 1981 for people of Northern Ireland, to respect the Belfast Agreement.

Lord Alton of Liverpool wrote to Brexit Minister Lord Callanan outlining concerns found in the report and called for the rights of Irish citizens to be secured with urgency:

“The paper clearly demonstrates that the rights of Irish citizens – future generations and those already living here – are at risk and need to be secured with urgency”.

The Crossbench Peer calls into question whether the Ireland Act 1949 is as reciprocal as often touted: “To date, I have not been reassured by statements regarding the Ireland Act 1949. I have not seen an explanation how the 1949 Act operates to confer rights to Irish citizens in the UK nor have I seen a sufficient explanation as to how the Common Travel Area provides citizens with the rights to work or receive healthcare. Most concerning is the lack of clarity around the powers to deport Irish citizens; a power the Irish Government has renounced for British citizens.”

In the letter, Lord Alton adds: “In these most uncertain of times, I am afraid Irish citizens require and indeed deserve more than warm words. We need clear and absolute legal guarantees to Irish citizens, because when laws are complex or unclear they are open to misinterpretation and this can lead to severe consequences for individuals and families.”

“The paper spells out the problems and the gaps in law and importantly it also provides the solutions. I hope your Department considers its findings carefully” wrote Lord Alton.

Yvonne MacNamara, Chief Executive of the Traveller Movement said:

“There are certain groups, such as Irish Travellers, who are much more vulnerable than others if laws are unclear and left to the interpretation of employers, landlords and officials. Unless the government acts to clarify and guarantee the rights of Irish citizens, it is not hard to imagine how Irish Travellers could be subject to greater levels of prejudice and discrimination than they already face.”

Simon Cox, Migration Lawyer at the Open Society Justice Initiative

“The British Government has consistently promised that Brexit will not weaken the situation of Irish citizens in the UK, or the movement of Irish citizens to and from the UK. Yet it has not made public how it will deliver this promise. A close look at current British laws shows a patchwork that may fall apart under post-Brexit political and practical pressures. The Government should quickly commit to a simple, clear and comprehensive law to guarantee the rights of residence and equal treatment for all Irish citizens. This will reassure Irish people in the UK and be a welcome and important element of the UK’s post-Brexit migration policy.

Bernard Ryan, Professor of Migration Law at the University of Leicester said:

“The Government’s stated intention to maintain a special status for Irish citizens after Brexit is welcome. That intention ought however to be reflected in legislation, and guaranteed by an international agreement with Ireland. At present, Irish citizens are covered by British immigration law, unless they last entered the United Kingdom from elsewhere in the common travel area. That leads to uncertainty as to their legal position in many situations, and gives no guarantee that immigration policy will not change in the future.”

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Notes to editors

1. [‘Brexit and Irish citizens in the UK: how to safeguard the rights of Irish citizens in an uncertain future’ is available online.](#)
2. The Traveller Movement is a leading national community charity promoting inclusion and community engagement with Gypsy, Roma, Irish and other Traveller (GRT) communities. TM’s mission is to develop a platform and voice for GRT communities, within the UK to achieve equality and justice through self-determination and proactive participation in influencing and shaping policy and practice.
<http://www.travellermovement.org.uk/>
3. The paper was funded by the Joseph Rowntree Charitable Trust.
<https://www.jrct.org.uk/>