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Rt Hon Hilary Benn MP
Chair, Committee on Exiting the European Union

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Dear Hilary

Please find attached, at Annex A, information provided by the Department for Work and Pensions in response to your letter of 2 February regarding the Department's data on EU citizens and on pension policy.

As with your letter, I have copied the Chairs of the Work and Pensions Committee, Home Affairs Committee, Treasury Committee and Health Committee.

If I can be of further assistance please do not hesitate to contact me.

Yours, ever

Damian Hinds MP
Minister for Employment

Annex A – Written evidence submitted by the Department for Work and Pensions to the Committee on Exiting the European Union

The UK's negotiating objectives for withdrawal from EU inquiry

Introduction

1. In the beginning of 2016, there were an estimated 3.5m EEA nationals living in the UK, with the majority estimated to have first arrived in the UK at least 5 years ago¹. DWP is working closely with the Home Office, HMRC and DExEU to support work on EU nationals living in the UK, and on a wide-range of other topics in relation to the UK's exit from the European Union.

What information does the Department for Work and Pensions possess that could assist in identifying EU citizens in the UK?

2. DWP cannot provide confirmation of an applicant's nationality because this information is not collected for the purposes of benefit claims made at the DWP.
3. However, DWP may hold information to support the application process. A National Insurance Number is generally required by any adult overseas national looking to work and claim benefits or tax credits in the UK, including the self-employed or students working part-time. As part of the application process for a NINo, some limited information on EU nationals is captured, including self-reported arrival date in the UK, the National Insurance number registration date, and the nationality of the individual at the point of registering. Subsequent changes of citizenship are not captured. The NINo registration data only provides information of when a person comes to the UK and registers for a NINo. It is not evidence that they remain resident in the UK; some people only come to the UK and work for short periods of time and then return home, for example seasonal workers in the agricultural or hospitality sectors.
4. In terms of reporting aggregate statistics on EU nationals, DWP routinely publish quarterly statistics on the number of National Insurance Numbers allocated to foreign nationals. In December 2016², statistics showed 825,000 NINo's registered in the year to September 2016; of which, 629,000 (76 per cent) were from European Union nationals.
5. Additionally, annual statistics show³ that in February 2016, around 100,000 claimants in receipt of a DWP working-age benefit were from the EU when they

¹ See, for example: http://www.migrationobservatory.ox.ac.uk/wp-content/uploads/2016/08/commentary-status_EU_citizens.pdf

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/573259/nino-registrations-adult-overseas-nationals-september-2016.pdf

³ <https://www.gov.uk/government/statistics/nationality-at-point-of-nino-registration-of-dwp-working-age-benefit-recipients-data-to-feb-2016>

first registered for a National Insurance Number⁴. There have been significant falls in Jobseeker's Allowance claims and out-of-work Housing Benefit claims⁵ from EU nationals in recent years.

How far back would the Department for Work and Pensions hold this data on an individual?

6. The DWP could provide information for individuals during periods when they have applied for UK benefits or other DWP-related services since their arrival in the UK. In the case of National Insurance Number registration, this data has been collected from around 1975. However, earlier data may not be sufficiently robust and comprehensive for nationality purposes. Historically, not all benefit claim information is available from the same point-in-time; though this still covers a long period of time.

What barriers are there, legal or otherwise, that stops the Department for Work and Pensions from sharing data with the Home Office in identifying EU nationals?

7. DWP data sharing is operated largely on a statutory basis, in reliance on specific statutory provisions. Section 20 of the Immigration and Asylum Act 1999 (as amended by section 55 of the Immigration Act 2016) and Immigration (Supply of Information to the Secretary of State for Immigration Purposes) Order 2008 (S.I. 2008/2077) allow DWP to supply information relating to social security for specified immigration purposes. Any disclosure made under these provisions must comply with all relevant provisions in the Data Protection Act 1998.
8. One of the barriers identified through previous data-sharing exercises has been the lack of common identifier across the two departments. DWP often uses the National Insurance Number, whereas this is less common for Home Office looking at immigration status. This can be overcome, though not necessarily perfectly, through "fuzzy matching"⁶ using name, date of birth and nationality.

What work is the Department for Work and Pensions actively doing in co-ordination with the Home Office to identify EU nationals living in the UK?

9. DWP are working closely with the Home Office, and a number of other departments to support work on identifying EU nationals living in the UK. The Home Office has been clear that it needs to continue to simplify and automate its

⁴ Includes Jobseeker's Allowance, Employment and Support Allowance, Incapacity Benefit and Severe Disablement, Income Support, Carer's Allowance, Pension Credit, Disability Living Allowance, Personal Independence Payments, Widow's Benefit.

⁵ <https://www.gov.uk/government/statistics/analysis-of-eea-migrants-access-to-income-related-benefits-measures>

⁶ This is a way of improving the match between datasets. Fuzzy matches include examples where there is a small difference in spelling or where one name sounds like another, or one name includes another.

application processes for EU nationals and we are working closely with them on how DWP can support this.

What are current arrangements in relation to pensions for:

- **UK nationals who have made contributions in one or more EU member state and then retired to another EU member state**
- **EU nationals who have made contributions in the UK and retired to another EU member state**
- **EU nationals who have made contributions in another EU member state and retire to the UK**

10. Entitlement to UK state pensions is based on payment of National Insurance contributions or credits and under UK domestic legislation is payable worldwide. It is not linked to nationality.

11. Under EU law, Article 6 of Regulation 883/2004 provides for aggregation of periods of insurance, employment, or residence in another member state for the acquisition or retention of benefit entitlements in the member state of residence. Articles 50-59 of the Regulation provide for the general entitlement, aggregation and award of 'old age and survivors' pensions⁷.

12. The purpose of the provisions on aggregation is to ensure that individuals do not lose out on any pension entitlement due to exercising a right to free movement within the EU/EEA.

13. Under EU law an individual does not need to claim their state pension entitlement separately from each member state. They can make one initial claim to the first member state where they have reached that member state's state pension age, provided that they are either resident, or have been employed/ insured in that member state.

14. On making a claim, details of the claim will be passed to other member states where they have worked/ been insured. Each member state will only pay once the individual has reached that member state's state pension age. The member state will aggregate (if required) but the amount awarded will only be based on the contributions actually paid in that member state. An individual will therefore receive, subject to meeting domestic eligibility rules, a proportion of their state pension from each member state where they have been insured.

UK nationals who have made contributions in one or more EU member state and then retired to another EU member state

⁷ [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004R0883R\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004R0883R(01))

15. At the point the individual makes a claim for state pension in any of these member states the UK will be notified of a claim to a UK pension. If/when they reach UK state pension age the UK will aggregate (if required) the individual's total contribution record from all the member states where insured, and calculate the amount of state pension under UK domestic legislation based on the number of years insured in the UK. A similar process will be followed in any other member state where the individual has been insured, based on the number of years insured and in accordance with its domestic legislation.

EU nationals who have made contributions in the UK and retired to another EU member state

16. At the point the individual makes a claim for state pension in the other member state the UK will be notified of a claim to a UK pension. If/when they reach UK state pension age the UK will aggregate (if required) the individual's total contribution record from all the other member states where insured, and calculate the amount of state pension under UK domestic legislation based on number of years insured in the UK. A similar process will be followed in any other member state where the individual has been insured, based on the number of years insured and in accordance with its domestic legislation.

EU nationals who have made contributions in another EU member state and retire to the UK

17. If the individual first claims state pension in the UK, as they have reached the UK state pension age, then any other member state where the individual has been insured will be notified of a claim to pension. The UK will aggregate (if required) the individual's total contribution record from all the other member states where insured, and calculate the amount of state pension under UK domestic legislation based on number of years insured in the UK. A similar process will be followed in any other member state where the individual has been insured, based on the number of years insured and in accordance with its domestic legislation.