Mr Roger Boaden – Written Evidence

The Statutory Instrument 2014 No. 3270

1. This Statutory Instrument breaches my rights under EU Regulation 883/2004:
   This provides that cash benefits payable under the legislation of one or more
   Member States or under the Regulation shall not be subject to any reduction,
   amendment, suspension, withdrawal or confiscation on account of the fact that the
   beneficiary or the members of their family status family reside in a Member State
   other than that in which the institution responsible for providing benefits is situated.

2. This Statutory Instrument is in contravention of judgments of the CJEU in Newton
   (C-356/89) and in Stewart (C-503/09)

I have a number of issues with the Explanatory Memorandum

1. The Memorandum states at 4.2: ' .... where the weather is generally warmer than the
   UK.' For me 'warmer' indicates temperatures in the mid-teens to low-twenties.
   'Warmer' is not considered to be 'warm' when heating is needed - we tend to need
   heat when outdoor temperatures fall below 10.0°C! Where we live in France we
   switched on our central heating on 5th November, and it has been on every day. I
   estimate we have used, so far this winter, €446 of heating oil (at the price delivered
   on 17/11/2014), and €60 of wood for our log burner, thus using up more than the
   €255 of Winter Fuel Payment received for this year 2014/2015. On the experience
   of the past 12 winters since we moved to France, we expect to continue needing
   heat until at least late May.

2. The Memorandum states at 4.4: ' .... that older people in the UK can keep warm during
   periods of cold weather ... . ' The words 'in the UK' have been added by this
   Government, they were never part of the original intention of the Winter Fuel
   Payments. When introduced: ' .... were introduced as part of the Government's initiative
to tackle fuel poverty amongst pensioners'. My wife and I are both UK pensioners, and I
qualified for the WFP in 2000, before we left the UK for France. We spend 9% of
our pensions on heating fuel.

3. The Memorandum states at 7.2: 'Winter Fuel Payments were originally introduced to give
   older people in the UK.' My response is as above in 2.

4. The memorandum states at 7.4: ' .... Temperatures covering the winter months
   (November-March).' Meteorologists and climatologists the World over define winter
in the Northern Hemisphere as being December-February (DJF), and the UK Met
Office also agrees. The DWP has decided to extend the 90 days to 151 days, and re-
define winter. Why?

5. The Memorandum states at 7.5: ' .... That approach ensured coverage for older people
   living in other EEA countries and Switzerland would be equivalent to the coverage they
would receive anywhere within the UK' That is simply not true, as the WFP has never
had any element associated with temperature, it is a universal benefit paid to
everyone, originally over 60, but now over 62.
6. The Memorandum states at 7.6: 'Therefore, people living in countries with an average winter temperature of 5.6°C or lower; or an average winter temperature that is close enough to that to be statistically equivalent, will be eligible for Winter Fuel Payments.' Very hard to understand this statement, for the Met Office Report to the DWP of December 2012, on which the DWP based its assessments, stated the following: France 4.9°C, Ireland 5.5°C, and Italy 5.7°C - So why have Ireland and Italy been declared 'cold' and OK, but France has been declared 'hot' and is proscribed accordingly?

7. The Memorandum states at 7.7: 'However; we would have to implement the scheme on a regional basis throughout the EEA in order to make a Winter Fuel Payment for even some of these people. DWP considered this very carefully but concluded that it would introduce disproportionate complexity and administrative costs.' It is very difficult to see how the DWP can justify this statement. Everyone in receipt of the WFP had to complete the same standard DWP claim form, which is laid out with a distinct field for the postcode, whether you live in Bristol, Blarney, Basel, Bologna, Bordeaux or Barcelona. This is done to ensure that all postcodes are data captured in the same way, ending up in an identical field. Anyone with knowledge of database management knows one of the most important sort parameters is the postcode. Twenty years ago I used database software purchased over the counter, which could be set, without any knowledge of programming, to select individuals from a database, using only the first two characters of the postcode. Imagine what can be done at the flick of a switch today, using in house bespoke software and super computers. There is no complexity at all, since the Met Office broke every country into regions in their analysis of temperatures. And as for the administrative costs – an excuse?

8. The Memorandum states at 8.4: 'The decision on which countries should be included or excluded has been based on the only comprehensive and comparable dataset available.' That dataset used by the DWP from the Report from the met Office of December 2012, was published in the 2003 by the Climatic Research Unit (CRU) of the University of East Anglia. The datasets resulted from a Global research project conducted in the Tyndall Centre for the CRU, and the Head of that Centre, Dr Tim Mitchell had this to say: 'Where a country includes a number of different climatic regions (i.e. regions in which climate varies coherently), it is possible that the models may represent the changes accurately in each region, but that the average change over the country as a whole may not be physically meaningful' One other important quote associated with this: from a FoI letter from the Met Office: 'DWP interpreted the data from this report to inform its policy for future eligibility to Winter Fuel Payments.'

9. There is a huge omission from the Explanatory Memorandum! There is no reference whatsoever to the way in which the DWP 'converted' the average winter temperature of France to make it 'hot'. No Government; no recognised meteorological agency such as the Met Office or Météo-France, does what the DWP did- add average winter temperatures from tropical islands in the Caribbean and the Indian Ocean to that of France to push it above the 5.6°C yardstick. The Director of the CRU told us: ' .... it is absurd to include these distant groups into France, and that is why we didn't do it!!'

7 January 2015