2020 APPG INQUIRY

> ***"I have already said I am not prepared to defend the logic of the present situation. It is illogical. There is no consistent pattern. It does not matter whether it is in the Commonwealth or outside it. We have arrangements with some Commonwealth countries and not with others. Indeed, there are differences among Caribbean countries. This is an historical issue and the situation has existed for years".***
>
> **– Jeff Rooker, Minister of State, November 2000**

Personal Details

By way of introduction my name is Nigel Nelson and I am a frozen pensioner living in British Columbia, Canada. I was Chair of the International Consortium of British Pensioners (ICBP) from late 2016 to March 2017, when I had to step down due to ill health. Today my main role is maintaining the ICBP website. I am also a member of the Canadian Alliance of British Pensions (CABP).

> **"*The state pension is a 'right' earned over a lifetime and not a benefit*".**
>
> **– Steve Webb, Pensions Minister, October 2014**

Section A – For those affected by frozen pensions

1. When did you leave the UK and for what reason?

I emigrated with my Canadian wife and dual citizen daughter to Canada in August 2008. One of the main reasons we left the UK was it allowed me to retire at the age of 56 and enjoy more family time, along with returning to my wife's Canadian "roots". In addition, we did not wish to bring our daughter up in the toxicity that the UK had become. Our decision to emigrate was made in 2006 shortly after the London terrorist bus and tube bombings.

2. Before you left the UK, were you notified by the Department for Work and Pensions (or the equivalent Government department at the time) that your pension would be frozen?

Absolutely not. I did not receive any paperwork from the DWP or any other UK government department.

3. Were you aware that your pension would be frozen before you left the UK?

Absolutely not.

4. Could you briefly outline your working life in the UK?

I worked in central London for one of the largest international law firms in the world – Lovells (previously Hogan Lovells, and before that Lovell White Durrant). I was not a lawyer, but I worked in their finance department and held the position of Finance Systems and Processes Controller. Over two ~~spells~~ separate periods of time I worked for this firm for a total of 19 years.

5. How many years did you make National Insurance pension contributions?

39 years.

6. What is the current level of your UK state pension?

I reached my 65th birthday in 2017. I was "contracted out" for many years and therefore my pension is based on the pre-2016 system. My basic UK state pension is £122.79. The rate today is £134.25. By my calculation, I have been paid to date £1,175 less than I would have received had I remained in the UK.

My wife retired in June 2014, aged 62, with 29 National Insurance contribution years, and her basic UK State Pension is £109.33, and she has received £3,438 less than if we had remained in the UK.

7. Do you currently receive any additional financial support from the country you live in?

My wife and I both receive occupational pensions from the UK, but no financial support from the Canadian Government. My wife has pension payments from the Canada Pension Plan [CPP] along with an occupational pension payment based on her years of work in Canada prior to emigrating to the UK.

Section B – For the Department of Work and Pensions (DWP)

I appreciate that these questions are intended for the DWP but based on the extensive research I've done on behalf of the ICBP and CABP I'd like to offer the following answers for your consideration and comparison to the information that the Government will hopefully provide you.

1. Why are pensions frozen for nearly 500,000 UK pensioners living outside the UK?

This is more of a question for the Treasury which creates and funds policies at the direction of the Government of the day. The DWP merely executes the policies as directed by the Treasury. I feel that we should be focussing our attention on the Treasury and not the DWP.

However, the DWP is responsible for the mantras and the duplicitous comments that they make. In addition, it "cherry picks" the facts that it presents to Parliament. For example, the Parliamentary Under Secretary responsible for the State Pension used to tell Parliament that it would cost £600 million a year to uprate 'frozen' pensions. This obviously was not enough of a scary number so now he tells Parliament that it will cost £3 bn over five years. What he also fails to tell Parliament is that the country can easily afford this amount given the surpluses in the National Insurance Fund (NIF). According to the latest set of NIF accounts (March 2019), there was a balance of £30 bn in the NIF and by law it needs to retain a balance of 1/6th of the Annual Payment which this year is £17 bn. This leaves an **excess balance of £13 bn**; and in the year to 31st March 2019 alone this excess grew **by nearly £6 bn**. The Government Actuary's Dept has forecast that this excess will grow to **£41 bn** by 2023/24. In fact, the UK government has been able to afford to uprate all "frozen" state pensions since 2016.

Other mantras they repeat include:

"We only uprate pensions where there is a legal liability to do so or where there are bilateral agreements in place".

Post Brexit this is now a lie. Whilst Amber Rudd (in her short tenure as Secretary of State for the DWP) announced that UK pensioners living in the EU would continue to receive uprating to their UK state pension for 3 years – where was the legislation to support that announcement? The Withdrawal Agreement? If this is the DWP answer – where are the bilateral agreements to support the continued uprating of pensions in the EU? There are some bilateral agreements and the rest are being frantically agreed before the end of the transition period (31st December 2020), but it makes a mockery of previously used mantra statements made by the DWP - after the 1991 Barbados bilateral agreement the DWP said: *"We will not be entering into any new bilateral agreements because they are too expensive".* Lies, lies and more lies. The following excerpts illustrate the Government's current position:

a). From the House of Commons Library Briefing Paper CBP-7894, 11 June 2020 – Brexit and State Pensions:

"An academic article from 2017 suggested that the existing agreements were far more limited in scope than the EU co-ordination rules and could well be outdated. The Government said in March 2019 that officials were assessing the pre-existing Reciprocal Agreements on a case by case basis to see whether they are capable of revival.

The UK has 17 reciprocal agreements on social security with EU Member States. There are 10 EU countries where there is no reciprocal social security agreement in place. These countries are: Bulgaria, Czechia, Estonia, Greece, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia."

b). According to the paper "*Social Security Coordination after Brexit: Trying to take the egg out of the omelette?"* published in December 2019, it says this about Bilateral Agreements:

"The UK has bilateral social security agreements with all the pre-2004 EU countries except Greece and Liechtenstein—and Cyprus and Malta of the post 2004 member countries as well ex-Yugoslavia. For EU nationals, bilateral agreements between member countries are largely redundant, having been superseded by the Coordinating Regulations, although these were retained as some of UK territory not part of EU free movement provisions, for example, Isle of Man, Jersey, Guernsey. ***The legal status of these old bilateral agreements is unclear:***

"Of course, we have an old bilateral agreement with the United Kingdom but nobody knows if it continues, if it is becoming applicable again or not. The Commission usually rejects continued effects of old bilateral Agreements with the UK, because from the moment EU legislation was applicable and the old Agreement was replaced by the Regulation it can't be brought to life again. We've already had some contact with our UK partners and they also said they don't know." (Austria, 2018).

"…we have never had bottomed out the legal advice on the status of those agreements" (UK 2018).

Examination of the UK's bilateral agreements with what are now EU member countries shows that while all agreements include equal treatment, whom that equal treatment applies to and the risks and benefits included varies from agreement to agreement, thus providing variable and incomplete coverage.Footnote62

*"**the provisions are so outdated … they would not be able to work**" (UK2018)."*

This gives rise to the following questions:

(i) Why is the UK government continuing to uprate the UK state pension for those UK pensioners living in those 10 countries where there is no legal liability to do so, and there are no bilateral agreements in place?

(ii). Having said that no more bilateral agreements were going to be negotiated after the Barbados agreement, why has the UK Government negotiated new bilateral agreements with Norway, Iceland, Lichtenstein, Switzerland and in May 2019 the Republic of Ireland, since the Brexit Referendum in 2016?

(iii). Having negotiated these new bilateral agreements, as well as seeking to resuscitate bilateral agreements for 17 EU countries, why is the UK not considering negotiating agreements with the 107 frozen countries, especially considering that the majority of frozen pensioners live in Commonwealth countries with which the UK has "***close and long standing societal, cultural and civic bonds***"?

(iv). Given the close connection between the UK and Commonwealth countries, why does the UK consistently ignore the Commonwealth charter:

"We are implacably opposed to all forms of discrimination".

2. When was the last reciprocal pensions agreement struck?

Take your pick – it certainly wasn't Barbados in 1991. I would go with any of the EEA (but non-EU) countries, Switzerland or the Republic of Ireland (February 2019). It certainly wasn't with any of the 107 frozen countries.

Perhaps the DWP can clarify exactly when the last agreement was negotiated (and with whom), and what are their bilateral agreement plans between:

(a). now and the end of the transition period (31st December 2020)?
(b). from the end of the transition period to the end of the 3-year agreement announced by Amber Rudd when she was Secretary of State for the Department of Work and Pensions?

I would like to emphasize that under Freedom of Information request 2013/595 the DWP made it crystal clear that bilateral agreements are not necessary in order to uprate the state pension unilaterally – all it needs is a change in domestic UK legislation.

This is yet another distraction by the DWP. They know that bilateral agreements are **not** required to unfreeze our pensions, but we continually get bogged down in discussions about bilateral agreements – pure diversionary tactics by successive UK Governments of all stripes.

3. What consideration has been given to uprating the pensions of those 'frozen pensioners'?

This question is beyond the DWP's pay grade, and would be better asked of the Treasury Department, and of politicians. The one question that I would ask both the Treasury and the Attorney General's office is:

"What are you so afraid of that is preventing you from updating frozen pensions?"

It can no longer be that "the country cannot afford it" since, based on the excess in the NIF this clearly is not the case. It cannot be bilateral agreements since they are not required in order to uprate our pensions. So, I repeat "*what are you so afraid of?*"

4. What assessment has been given to the cost (use of public services etc) to the taxpayer of an average pensioner living in the UK?

This question is probably better aimed at the Office of Budget Responsibility (OBR).

5. What assessment has the Government made of how much it saves by virtue of UK State Pensioners living outside the UK who consequently then do not rely on, or draw from the UK state in terms of healthcare and other benefits?

In January 2016 the ICBP prepared a paper for Sir Oliver Letwin, then a senior member of the Cabinet Office, entitled: *"Partial Uprating – Cost Benefit Analysis".* Sir Oliver passed it to the OBR and asked them to validate the numbers. The OBR responded to Sir Oliver saying that the average saving each pensioner living abroad was "*close(r) to £1,500"* per pensioner per year, after taking into account taxation (income tax, VAT, etc) vs benefits in healthcare (NHS), housing and other social welfare benefits.
Based on using Government data such as Pensioner Income Series and The Effects of Taxes and Benefits on Household Income it is possible to calculate these numbers.

For example, the average benefit received per pensioner in the 2014/15 year was:

Direct Cash Savings (Incapacity Benefit, Income Support, Housing Benefit, Carer's Allowance, Disability living allowance, PIP, etc)	£1,478
Benefits in Kind (Education, National Health Service, Housing subsidy, Rail travel subsidy Bus travel subsidy)	£4,247
TOTAL:	**£5,725**

The average taxation per pensioner in the 2014/15 year was:

Direct Taxes (Income tax, Council Tax, etc)	£1,871
Indirect Taxes (VAT, Duty on tobacco, Duty on beer and cider, Duty on wines & spirits, Duty on hydrocarbon oils, Vehicle Excise Duty, Television licences, Stamp Duty on house purchase, Customs duties, Betting taxes, Insurance Premium Tax, Air Passenger Duty, Camelot National Lottery Fund)	£2,279
TOTAL:	**£4,150**
Net Savings per pensioner:	**£1,575**

If you use the Pensioner Income Series and The Effects of Taxes and Benefits on Household Income for the 2018-19 financial year, the numbers are:

Direct Cash Savings (Incapacity Benefit, Income Support, Housing Benefit, Carer's Allowance, Disability living allowance, PIP, etc)	£1,427
Benefits in Kind (Education, National Health Service, Housing subsidy, Rail travel subsidy Bus travel subsidy)	£5,814
TOTAL:	**£7,241**

The average taxation per pensioner in the 2018-19 financial year was:

Direct Taxes (Income tax, Council Tax, etc)	£3,193
Indirect Taxes (VAT, Duty on tobacco, Duty on beer and cider, Duty on wines & spirits, Duty on hydrocarbon oils, Vehicle Excise Duty, Television licences, Stamp Duty on house purchase, Customs duties, Betting taxes, Insurance Premium Tax, Air Passenger Duty, Camelot National Lottery Fund)	£3,118
TOTAL:	**£6,311**
Net Savings per pensioner:	**£930**

The question I have put to the OBR is: What is the current "net savings per pensioner"? in my Freedom of Information (FOI) request entitled "*Information relating to savings made by the Treasury*" which was raised on 16th March 2020, for which I am still awaiting a reply.

6. Can you provide full examples of materials sent to those emigrating regarding the possibility that their pensions would be frozen in each of the following decades a) 1950's; b) 1960's c) 1970's d) 1980's e) 1990's f) 2000's g) 2010's h) 2020's?

Whilst this is a good question, the response could be that they did not necessarily know when someone was emigrating, so how could they warn them?

In my own case they had absolutely no idea that I was emigrating since my wife is Canadian and she "sponsored" my emigration to Canada. It was only after the fact that I had correspondence with the DWP.

7. What assessment has the Government made of the financial wellbeing of expat UK State Pensioners?

This is a good question, but I would rephrase the question slightly: *What assessment has the Government made of the financial wellbeing of expat UK Pensioners who have their state pension frozen?*

8. What assessment has the Government made of the demographic make-up of the *frozen* expat community? In any such analysis, has the Government derived an estimate of the number of public servants and military veterans in that community?

Again, I would add the word 'frozen' into the question. We need to be careful that we are not trying to single out special treatment for parts of the frozen expat community. All of the frozen pension lobby groups (and they include more than the BPiA, CBPA, CABP and the ICBP) have always used the platform of solidarity within the frozen pension community. We are fighting for pension parity globally for all frozen pensioners.

I would also ask another question:

9. What assessment has the Government done with respect to pensioners living in the UK who would emigrate back to their place of birth if the frozen pensions policy was annulled? Has the Government assessed how much this would save the country in terms of social housing, healthcare (e.g. NHS), and other social welfare benefits after considering taxes forgone?

Section C – For Organisations/civil society groups

I appreciate that these questions are intended for the BPiA, CABP, CBPA, and the ICBP but, again, based on the extensive research I've done on behalf of the ICBP and CABP I'd like to offer the following answers for your consideration.

1. Does the 'freezing' of the state pension of UK pensioners living in a country that does not have a reciprocal agreement with the UK impact any members or individuals that you represent or provide services for?

I have provided "services" to the Canadian Alliance of British Pensioners (CABP) and the International Consortium of British Pensioners (ICBP) from time to time, and there are several points that I would like to make:

a). The cost to uprate frozen pensions worldwide is £600 million a year. Based on latest DWP data (August 2019), 25.7% of frozen pensioners live in Canada, so, if the frozen pensions policy was annulled, then just over £150 million (CAD 250 million) would flow through to UK pensioners living in Canada, and since pensioners are spenders and not savers, this has the spending power of over CAD 560 million a year. This is the least amount that the Canadian Government is subsidising the UK Government.

b). In addition, there are further costs to the Canadian Government in terms of the financial support they are providing to UK pensioners living in Canada who are living on the breadline – for example, there are 23,500 UK pensioners living in Canada who are receiving a UK state pension of less than £20 per week – the average for this cohort of pensioners being just £12.87 per week.

c). There is undoubtedly a cohort of UK pensioners living in Canada who are very poor. These pensioners will be subsidized by the Canadian government via the Guaranteed Income Supplement (GIS). Any increase received by this cohort of UK pensioners living in Canada could mean that they are no longer eligible for GIS, and this would represent a saving to the Canadian government.

d). According to Statistics Canada, as at 2016, there were 828,000 pensioners living in Canada aged 65 and over on "low income", and, according to the Government of Canada, as at 2016, 10.3% of Men and 10.8% of women aged 65 and over were living below the poverty line – in terms of UK pensioners, this means over 14,000 of them are living below the poverty line.

e). The average UK state pension received by the 128,000 UK pensioners living in Canada is just £44.87 per week.

2. How many represented members or individuals with a 'frozen' pension are you aware of and/or please provide any relevant evidence related to the experience of individuals with a 'frozen' pension?

I am not personally aware of any 'frozen' pensioner who are in the predicament that is described above. Trying to find these individuals is extremely hard. The CABP has spent years trying to find where the poorest UK pensioners are living but has only found a few isolated cases.

3. Please provide any evidence related to the experience of UK pensioners you represent or provide services for that you believe may be relevant to this inquiry.

The only frozen UK pensioner that I am aware of personally is Joan Gibson who lives in South Africa. She can be contacted using this email address: duffenwebb@yahoo.com.

Section D – For administrations of countries containing residents with 'frozen' UK state pension

I can provide some information as it applies to Canada…

1. How many people in your country are recipients of a UK state pension?

In Canada there are just over 128,000 UK pensioners ~~living here~~ according to the DWP (August 2019).

2. Does your country offer any additional financial support for residents with a 'frozen' UK state pension?

Yes – the Canadian Government offers a variety of social welfare benefits for those that are in need and meet the relevant criteria.

3. Has your country made any representation to the UK Government on behalf of UK pensioners residing in your country who are in receipt of a 'frozen' UK state pension?

Canadian Governments of all stripes claim that they continually make representations to the UK Government but without any success. I have seen several letters from Canadian Ministers over more than one Government regime stating this, but I have never seen any correspondence from the Canadian Government to the UK Government.

4. Has your country made any formal or informal requests to the UK Government for a reciprocal agreement that includes social security and uprates the state pension of UK residents in your country in line with inflation?

No idea, but why are we still talking about reciprocal agreements or the Canadian rate of inflation?

5. Please provide any relevant information or examples of the impact of the 'freezing' of the UK state pension of UK pensioners overseas on a) your country and b) residents of your country.

Please see the answer to question 1 in Section C.