UNIVERSITY OF LIVERPOOL

An International Comparison of Health, Social Care and Welfare Legislation and its Effects on Older British Nationals' Mobility within the European Union: Final Report Prepared for Age Concern England and The Royal British Legion

Dr Keleigh Coldron and Charlotte O'Brien

European Law and Policy Research Group

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A Note on Project Personnel

Keleigh Coldron is a Post-Doctoral Research Fellow at the European Law and Policy Research Group at the University of Liverpool. She has over ten years' research experience in the broad field of social policy and in recent years has developed a strong interest in retirement migration and its impact on local health and welfare services.

Charlotte O'Brien is a doctoral candidate at the University of Liverpool. Her AHRC-funded PhD looks at cross border access to social assistance by a particular group of economically inactive EU migrants: volunteers. She is also a volunteer advisor for the Citizens' Advice Bureaux.

Three country experts were also recruited during this project:

- *Sam Scott* is our country expert for France. He is a lecturer in the Department of Geography at the University of Liverpool. He has ten years experience in the field of international migration research and is particularly interested in British expatriates, the international mobility of EU citizens, and migrant workers in the global food industry;

- *Felix Pause* is our German country expert. He is a Graduate Teaching Assistant at the Unversity of Liverpool's Law School. His interests lie in the broad field of EU law and, in particular, social law;

- Colleagues from Lisbon-based CESIS (Centre for Studies for Social Intervention) acted as our Portuguese country experts. *Heloísa Perista* is a Senior Researcher and President of the Board of Directors at CESIS. She has over twenty years' research experience in the areas of poverty, social exclusion and migration. *Alexandra Silva* is a research assistant at CESIS. Her work focuses on gender equality policies and, more recently, on the gendered manifestations of transnational mobility.

An Introduction to the Research

In May 2008, the European and International Unit for Age Concern England (ACE), supported by The Royal British Legion (TRBL) invited tenders for a mapped analysis of statutory health, social care and welfare provision in four Member States: Cyprus, France, Germany and Portugal. The research was to identify the rights of older British migrants in relation to the rights of nationals in these four countries and contribute to TRBL and ACE's evidence-base through identifying where gaps in rights occur following retirement migration. The European Law and Policy Research Group (ELPRG) at the University of Liverpool successfully tendered for the work which started in June 2008. ACE and TRBL identified four key objectives that the research was to address:

1. To identify the rights to statutory health, social care and welfare provision that are lost on migrating from the UK. The health, social care and welfare services we are specifically concerned with are: all primary and secondary care health services, all social care appropriate to older people including community care and help with residential care and financial benefits that are available for older people;

2. To identify the statutory health, social care and welfare provision available for a retirement migrant in Cyprus, France, Germany and Portugal;

3. To identify if and where gaps exist between statutory provision in the UK and statutory provision in the host country and identify whether there is a disparity between the entitlements of a retirement migrant and the entitlements of a local national and, if so, the reasons for this disparity;

4. To provide some assertions as to whether retirement migrants are specifically disadvantaged or other migrants are equally disadvantaged.

This report, organised in four main sections, documents the findings of this work to date.

A Note on Method

What we have sought to do in this project is define and compare the statutory health, welfare and social care benefits and services that are available for older British nationals in five Member States - the UK, Portugal, France, Germany and Cyprus. In order to ground that information in the lived reality of people's lives, and to avoid "losing sight of the forest because of the trees" (Van den Bosch and Cantillon, 2006: 305), we decided to follow a method developed by Bradshaw and Finch (2002) in their comparative analysis of child benefit packages across 22 countries.[1] They proposed a series of 'hypothetical families' and appointed national informants who completed a policy questionnaire on child benefits and related services that were available in the particular countries. Following this, we appointed three country experts[2] to provide information on the statutory health, welfare and social care benefits and services four different 'types' of older British nationals might be entitled to if they moved to those Member States. Our hypothetical cases were devised so that our experts could assess whether different personal circumstances - such as whether migrants retired early, or whether they had dual residences - shapes eligibility to benefits and services within each Member State. The four hypothetical cases we therefore posed to our country experts were:

1. A married couple who took retirement in the UK at 65 and moved abroad immediately;

2. A married couple who took early retirement at 55, continued to reside in the UK for 10 years, and then moved to another MS;

3. A married couple who took early retirement at 55 and moved abroad immediately;

[1] However, we should point out that our findings provide a summary of individual services and benefits older British migrants might be entitled to in the particular Member States - it is not a reflection of practice in that it cannot give details of the 'packages' of different types of treatment under three different service headings - health, welfare and social care - for several different claimants in four different countries. The package approach would require a great many more case studies, each much more specific, and would be appropriate if focussing on, say, one aspect of social security (such as disability, for example). It would involve looking at how several individual benefits are affected by different levels of disability (e.g. equivalents of disability premiums on other benefits, any increases in disregarded income or potential backdating claims, indirect effects on other benefits/services (e.g. giving Child Tax Credit more clout when claiming knock-on benefits). Any study that falls short of this level of interaction is inevitably a snapshot, and we understand that we are trying to give a snapshot of a variety of services.

[2] It proved especially difficult to identify a country expert for Cyprus so Keleigh Coldron took on this role.

4. A married retired couple who spend six months in one MS and six months back in the UK residing with their children.

Previous research notes how the concept of 'retirement migrant' conflates a wide variety of different personal circumstances which shape eligibility to statutory health, social care and welfare schemes across the EU (Ackers and Dwyer, 2002; Dwyer and Papadimitriou, 2006). In posing these four different scenarios, we hoped to illuminate some of the different ways in which age and residence impacted on older British nationals' access to statutory benefits and services.

Structure of the Report

The report is organised into four main parts. First, it offers a summation of the European legal background to benefit claiming as a migrant retiree. This includes a review of the material and personal scope of EC coordinating legislation and of equal treatment case law. Second, we present a grounded analysis of the benefits and services older British citizens might retain or lose on migrating from the UK, through utilising domestic rules established to implement Community coordinating rules. Third, we provide individual synopses on the health, welfare and social care benefits and services available to older British migrants in each of the four nations under consideration, and identify any possible problems our hypothetical retirement migrants might face in securing access to such services. In the fourth and final section, we attempt to pull these different strands together to unpack some broader questions about the implications of moving as an older British national.

Section 1: European Union Citizenship and Retirement Migrants - A Legal Analysis

In the interests of facilitating the exercise by EU nationals of their rights to move freely and reside throughout the EU, there has long been coordinating legislation to try to aid migrants moving between different schemes of social provision. Thus some benefit eligibility accrued under one Member State's legislation need not be lost. However, the rules are complex and involved, and somewhat un-ambitious in their reach: social assistance is not strictly speaking coordinated, but migrants may assert rights associated with Union citizenship to claim equal treatment. Likewise, social services are not subject to coordination, but Member States are obliged to continue to fund health insurance of some migrants – most notably those receiving a state pension. This first section attempts to unpack some of these issues through providing a clear summary of the EC legal background to benefit claiming as a migrant retiree. It also provides a review of the material and personal scope of EC coordinating legislation and of equal treatment case law.

A Summary of the EC Legal Background to Benefit Claiming as a Migrant Retiree

For the purposes of the discussion below, migration is assumed to be from a 'home state' and to a 'host state'.

Material and personal scope of EC coordinating legislation

There are, broadly speaking, two major forms of coordination, serving to avoid loss of benefits on intra-EU migration: (1) exportation; and (2) equal treatment. The first challenges the principle of territoriality enabling certain benefits to be taken to other Member States, and usually means that the home state remains the competent state – and the state funding the benefit claim. The second – equal treatment – is about staking a claim to a benefit within and funded by the host state. It can be subdivided into contributory and non-contributory benefits. Migrants claiming contributory benefits from the host state are entitled to have their contributions/periods of residence/periods of employment (whichever is material to the benefit entitlement) in the UK taken into account as though performed in the host Member State. However, it would have to be

established that the host state rather than home state were the competent state: this is less likely in our scenarios as all the case studies feature post-retirement migration. Migrants claiming non-contributory benefits will have limited and conditional rights to claim equal treatment with nationals.

Social services

Social services are not included in the EC coordinating legislation. They may however count as social advantages (within Article 7(2) of Regulation 1612/68/EC) and so fall within the remit of 'equal treatment'. Migrants may thus claim these services from the host state, following the same logic as with social assistance. However, as with social assistance, failure to provide for one's own 'needs' may render a migrant an unreasonable burden, and they may be found to no longer have sufficient resources. In terms of trying to 'export' services – such as direct payments, for example - an argument might be asserted that precluding such exportation constitutes an obstacle to the freedom to move and reside. Such an argument would be unlikely to succeed: exportation is a social security principle; social advantages have been found to be 'exportable' only in very limited circumstances and moreover, not when the advantage is social care. A territorial restriction for an advantage may be justified where it is considered closely aligned with the social environment of a Member State, and particularly where the balance of competence is tipped heavily towards the national, rather than EU, regime.

Health Services

This study does not deal with persons habitually resident in the UK wishing to receive healthcare in another Member State without relinquishing UK residence. There is considerable case law on the obligations of Member States to facilitate cross-border treatment for residents. The focus here, however, is treatment in a host state following a permanent transfer of residence. If migrants meet certain contribution conditions, they may retain health insurance paid for by the home state (the UK) to utilise in the host state for a temporary period. If migrants are receiving a pension or invalidity benefit from the home state, that state has a responsibility (of indefinite duration) for insuring them. When

covered by the home state, the migrant is able to access state health care in the same way as nationals of the host state – which may involve paying some fees.

Identifying the Competent State: Home or Host State?

Regulation 1408/71/EC states the general principle that each person should be subject to the social security system of only one Member State at a time. The Member State whose legislation is applicable is the competent state. Whether the home or host state is competent depends on where the claimant is insured at the time of the benefit claim. If the claimant is not insured at such a time, it is the last Member State of insurance. If a claimant is receiving a pension from more than one Member State, then the state of residence will usually be the competent state. Assuming our case studies have not been insured in the host state, that would imply that the UK will typically be the competent state. However, it must be noted that this is in respect of social security, not social assistance.

Exportation: Some General Rules

Regulation 1408/71/EC provides for the exportation of social security benefits (not social assistance), so that migrants can still receive certain UK benefits while in other Member States (see Section 2 for more detail on this). Special non-contributory benefits are not exportable, provided that they are both genuinely special and non-contributory and are listed in the Appendix. However, there may be cases where a flat non-exportability rule could be challenged, though this is more likely in a frontier work scenario. In our case studies none of the migrants continue working in the UK.

Aggregration

If the host state were to be the competent state, then claimants could claim contributory benefits from that state, and have contributions made in the UK taken into account when assessing eligibility. However, if claimants in our case studies were to claim a contributory benefit they would most likely claim it from the UK. The potentially more significant form of equal treatment regards access to social assistance and special non-contributory benefits.

Summary of Equal Treatment Case Law

Regulation 1612/68

The principle of equal treatment as regards access to social advantages emerged as a natural corollary of the free movement of workers – i.e. as a facilitator of labour mobility, rather than as an objective in and of itself. Thus it is outlined in Regulation 1612/68/EC, itself a specific expression of the rights indicated in Article 39 EC – referring to workers, and the Court specifically excludes pensioners from falling within its remit.[3] However, it *may* be possible for some retired migrants not yet receiving their pension to claim coverage by this Regulation.

Article 12 EC

The broadened application of equal treatment to persons not directly covered by that Regulation is the result of the incremental exercise, and subsequently improved robustness, of the non-discrimination principle – embodied in Article 12 EC – under the Union citizenship regime – Articles 17 and 18 EC.

The elimination of direct discrimination was the combined result of the judgments in *Maria Martinez Sala*[4] and *Trojani*[5]. *Martinez Sala*, as a national of a Member State lawfully residing in the territory of another Member State, came within scope *ratione personae* of the provisions on European citizenship and so was entitled to benefit from the principle of non-discrimination. Thus all citizens could rely on the right not to be discriminated against. This principle was further elucidated, and refined in *Trojani,* where the Court found that the claimant could not be denied social assistance on the basis of nationality, so long as he had been lawfully resident in the state for a period of time or had a residence permit. Directive 2004/38/EEC Art 24(2) takes its cue from the 'period of time' condition when it states that Member States shall not be obliged to afford equal access to social assistance benefits within the first three months of residence. After that first three months, Member States may not expressly directly exclude EU migrants from social assistance. They may however indirectly discriminate against non-worker

[3] Leclere
[4] Case C-85/96 Maria Martinez-Sala [1998] ECR I-2691

migrants, by requiring a 'real link' or period of residence that may not be required of nationals. Moreover, once a migrant becomes eligible, they may at that point jeopardise their residence rights.

Conditional Right of Residence

Retired migrants can utilise their Article 18 EC rights to move and reside, and subsequently claim equal treatment to access social assistance, but the Article 18 EC right is conditional upon sufficient resources and not becoming an unreasonable burden, until a permanent right of residence is acquired, which for all the case studies would be five years (lower thresholds exist for migrant workers taking early retirement in situ or incapacitated by an accident at work, in situ).

However, making a residence right conditional upon sufficient resources and the obligation to not become an unreasonable burden does not necessarily mean the right is forfeited at any time if the migrant calls upon the public purse in the first five years of residence; moreover both case law and legislation make it clear that the right to reside may not be automatically revoked as the result of a social assistance claim. Migrants may have the right to request that their situation be assessed, and to demonstrate that their level of integration/economic history/other pertinent factors render their claims reasonable burdens upon the public purse.

There are few social-rights' guarantees offered by Community law to post-retirement migrants for the first five years of residence, meaning that actual rights enjoyed will be highly contingent upon individual Member State practice, and may boil down to discretionary 'reasonableness' assessments. Williams and colleagues (2000: 32) have documented "a broad Europeanization of the retirement migration 'horizons' of active international retirement migrants in recent decades". This group, as a whole, present something of a quandary for the economic mobility model of Union-based rights. Insofar as Union citizenship is an attempt to role out universal rights, rather than earned benefits

[5] Case C-456/02 Trojani [2004] ECR I-07573

of Union membership, the treatment of retired people without a history of labour-related mobility is a citizenship litmus test.

Conclusion

Community coordinating legislation is geared towards facilitating economic migration – hence the economically active, or potentially economically active (students, workseekers) or those parasitic upon the economically active (family members of a 'worker') are inevitably better provided for than the economically inactive, a residual category which includes retirees. As regards health, our case study migrants would have to fit certain categories to get NHS coverage. As regards benefits, they could rely on an ability to export benefits 'earned' as a worker, but social assistance would turn upon an ill-defined, highly conditional right to equal treatment as a Union citizen (that is, equal treatment as compared to host state nationals). However, Community law allows for a distinction in treatment, as evidenced in the sufficient resources requirement.

The equal treatment can be extrapolated to equal treatment with *home* state nationals – based on an argument that where a national loses a benefit because they have left the national territory, there is discrimination, albeit based not on nationality but on migration. The argument runs that persons should not be arbitrarily put at a disadvantage just for having exercised free movement rights. However, obstacles to free movement can be readily justified, and the non-exportability of social services is a likely example.

Section 2: UK Statutory Health, Social Care and Welfare Provision

The second section provides a summary analysis of the benefits and services older British citizens might retain or lose on migrating from the UK, through utilising domestic rules established to implement Community coordinating rules.[6]

Exportable and Partially Exportable Benefits

This examination of UK benefits focuses particularly on the complexities surrounding partially exportable benefits such as Disability Living Allowance (DLA), Carer's Allowance (CA) and Attendance Allowance (AA).

State Retirement Pension

Former workers who migrate after retirement can export their pensions from the home to host state without reduction or modification.[7] However, state retirement pensions are subdivided in the UK, into category A, B and D retirement pensions:

Category A retirement pension: This is fully exportable, and it is up-rated every year within the EEA as it is in the UK.[8]

Category B retirement pension: A married woman (but until April 2010 not a married man or a civil partner) who does not qualify for a full Category A pension may be able to get a pension based on her husband's contributions. This is fully exportable. Claimants can export existing claims, or if they migrate before reaching state pension age, may submit new claims when they reach state pension age, to the UK from another Member

[6] The information provided in this section is adapted from a whole host of sources, including: Legislation: Regulation 1408/71/EC; Regulation 883/2004/EC; Regulation 1612/68/EC; Directive 2004/38/EC; *Migration and Social Security Handbook*, 4th edition CPAG 2007; *Welfare Benefits and Tax Credits Handbook 2008/9* CPAG, 2008; NHS: 'Health Advice for Travellers'; NHS Choices: Country by Country Guidance: http://www.nhs.uk/countryguidance/Pages/EEAcountries.aspx; Information system, Ripon Citizens Advice Bureau; HMRC: Social Security Abroad NI38; Advice line: International Pension Centre.

[7] Arts 1(h) and (i), 10 (1) and Annex VI O (12) Reg 1408/71

State. However, to do so, the UK must be the last state of employment. If the claimant works in the host Member State then the claim must be submitted to the host state, and all the states in which the claimant has worked will work out total entitlement and apportion responsibility between them.

Category D retirement pension: These are for claimants who have not paid enough NI contributions for a Category A or B pension and are aged over 80. A client aged 80 or over can claim if: (1) s/he gets no other state retirement pension or gets a reduced amount which is less than the current rate of a Category D pension; (2) he/she normally lives in England, Wales, Scotland or N. Ireland; and (3) has lived in the UK for a total of ten years or more in any continuous period of 20 years after her/his 60th birthday. The above renders a Category D retirement pension non-exportable. However, it is worth noting that residence in another EEA state may count towards the 10 year residence condition, if any of our case study migrants were to return to the UK at a later date and wish to claim it. In order for residence abroad to count towards the 10 year accrual, either that residence must count towards old age benefits in the other Member State, or the claimant must have been insured in that other Member State and have paid Class 1 or 2 UK contributions at some point.

Extra pension

If pension has been deferred, a claimant can accrue an extra pension; a claimant can defer while in UK or in EEA. They can also 'deretire' – i.e. choose to defer after having started claiming. An extra pension can continue to be earned while living in the EEA

Old-age social assistance

Those retired migrants who are able to export their pension to the new host state may well find that they do not have enough to live on; indeed, the proliferation of means tested pension-supplements in various Member States is testament to the growing recognition of the problem of insufficient old age provision, and the consequent age bias of poverty. These supplementary old age benefits tend to be 'solidarity benefits'; they are

[8] Arts. 1(h) and (i), 10(1) and Annex VI Y (12) Reg. 1408/71

either social assistance or bear the characteristics of social assistance, and so access would traditionally have been limited to economically inactive migrants.

Pension credit is not exportable. Pensioners who move abroad and are receiving this credit can only receive it for 3 months after they move - after that they are ineligible - and this is only on the condition that their intention is to not permanently move there. If their intention is to permanently move abroad, then they can only continue receiving pension credit for four weeks (see Coldron and Ackers, 2009 and Age Concern, 2007).

Incapacity benefit - common provisions:

New claims: If a migrant becomes ill while abroad, and meets the UK contribution conditions they can put a new claim in for the UK incapacity benefit – however women must be below 60 and men below 65.

Continued claims: If a claimant wishes to make use of any of the rules outlined below, they must meet the age requirements – women can continue receiving IB until the age of 65, men until the age of 70, if s/he would be entitled to a retirement pension if s/he claimed it.

For the first 196 days of incapacity, incapacity benefit is awarded at the lower short term rate. From 197-364 days it is awarded at high short term rate. After that point it is awarded at the long term rate. Long term IB may be awarded after 196 days if the claimant is terminally ill or in receipt of the higher DLA care component.

Both can be exported, and if a claimant is already in receipt of short term IB in the UK and this is exported this should still become long term IB while abroad. However, if a claimant becomes ill abroad and meets the conditions for a new claim for short term IB this will not necessarily become long term IB (see below) and so may just run out.

Short term incapacity benefit

This is classed as a 'sickness' benefit for the purposes of Regulation 1408/71, as opposed to long term IB which is an invalidity benefit, so they are subject to different provisions. If the claimant has a pension in more than one Member State (including state of residence) he/she can claim sickness benefit from the host state.[9] The rules on short term IB are slightly different depending on whether the planned absence in another EEA state is temporary or permanent. Assuming all of our case studies to be planning a permanent move abroad, (see appendix for temporary absence and conditions) then a claimant can export short term IB as long as authorization is obtained from the UK social security office. This can be obtained after the claimant has moved abroad, but payment will not be received abroad unless and until it is obtained.

Long term incapacity benefit

This is classed as an invalidity benefit as within Article 38 of Regulation 1408/71. It is classified as a Type A invalidity benefit – in that the amount of IB does not vary according to the level of contributions made. If a claimant has worked and paid contributions only in Member States with a Type A invalidity benefit – so if claimant has only contributed to UK scheme – s/he can only claim IB from one Member State. This will be where the person was insured at the time they became incapable of work,[10] unless the claimant was not insured at that time, in which case the last state of insurance applies. It is , by virtue of *Article 39* (11)(14) and Annex IV (Y) (12) fully exportable without modification or reduction. Unlike short term IB, therefore, the condition must have become manifest in the UK for the UK to pay the benefit.

ESA (Employment and Support Allowance)

Incapacity benefit and Income Support paid on the basis of incapacity for work or disability are being replaced with ESA. From the end of January 2009 new claims will be for this new benefit, as it will no longer be possible to assert new 'backdated' claims

[9] Arts. 27 & 31 Reg. 1408/71.
[10] Art 39 (1) Reg. 1408/71

under the old rules. There are two forms of ESA – contribution based, which roughly replaces IB, and income based, which roughly replaces incapacity/disability related IS. It is payable only below state pension age.

See DWP 'Technical factsheet T10 – Special cases'[11] for further information. ESA (ib) will not be generally exportable, with exceptions for short absences, (up to 4 weeks) absence to receive medical treatment, (up to 26 weeks) and NHS temporary treatment abroad (for the length of treatment). These provisions would not affect our case studies, assuming they are intending to move for the long term, not just duration of treatment. ESA (cb) should, like its predecessor IB, be paid to people within the European Economic Area and Switzerland provided they satisfy the National Insurance contributions in Great Britain and meet the other conditions for entitlement to benefit. Such cases will be sent to the International Pension Centre for a decision on entitlement under the EC Regulations.

The guidance issued thus far does not differentiate between the initial and main phases of ESA with regard to exporting, unlike the differences between IB (st) and IB (lt). It is possible however, that once on the 'main' phase of ESA that those being paid the 'work related' component of ESA may be treated slightly differently to those being paid the 'support' component, as the former may be found to be a sickness benefit, the latter an invalidity one. These details are yet to be clarified.

Disability Living Allowance (DLA), Attendance Allowance (AA) and Carer's Allowance (CA)

DLA is only relevant to migrants under 65 years of age. Currently, the UK will not process any new or repeat claims from anyone resident abroad, although such claims may be submitted pending further developments. AA is only relevant to migrants of 65 years of age or over. There is no upper age limit for Care Allowance, but as claimants cannot receive it if they are receiving a state pension it will tend only to be applicable to claimants below the age of 65.

[11] http://www.dwp.gov.uk/esa/pdfs/t10-esa-factsheet-special-cases.pdf

DLA, AA and CA have typically been treated as special non-contributory benefits, and so territorially restricted and not exportable. However, The ECJ has found that AA, CA and the care component of DLA constitute sickness benefits and as such fall within the ambit of the coordination rules of Regulation 1408/71/EC. Therefore, the mobility component of DLA, and any subsidiary benefits attached to it remain non-exportable.

Existing AA, CA and DLA care component only claims can be exported to any of the nominated Member States so long as the claimant fulfils one of the following criteria:

- receipt of state retirement pension, long-term incapacity benefit or bereavement benefits from the UK; (DLA care component will be paid for as long as the claimant remains in receipt of the benefit, or for the duration of your current award if shorter); *or*

- past payment of enough national insurance contributions to be able to claim a contributions-based sickness benefit, for example, short-term incapacity benefit (DLA care component will be paid for as long as the claimant remains insured from these contributions, or the duration of the award if shorter); *or*

- s/he is a family member of someone entitled to claim a contribution-based sickness benefit. A family member is a spouse, civil partner or a dependent child (DLA care component will be paid for as long as that person remains insured from their contributions or the duration of the award if shorter).

If a claimant receives a sickness benefit from another EEA state or Switzerland, or if s/he works in another country, this may affect whether s/he can continue to receive AA/CA/the care component of DLA when s/he moves from the UK. If a claimant receives a retirement pension or invalidity benefit from another EEA state or Switzerland, s/he may be entitled to a benefit equivalent of AA/CA/the care component of DLA from that country rather than from the UK.

Pensioner carers

The state retirement pension overlaps with CA. If a carer reaches pension age and receives a pension equal to or more than the value of CA, they will no longer receive CA. What they will continue to have is an 'underlying entitlement'. However, on investigation, it seems that this underlying entitlement only yields benefits to claimants who remain resident in the UK. For instance, those with an underlying entitlement to CA may receive a carer's addition with their pension credit. Pension credit however, as noted above, is not exportable. The underlying entitlement *may* be of use if claiming an equivalent social assistance benefit from the host state, but it is difficult to identify a suitable equivalent (most care benefits being incorporated into social security), and besides, as discussed in Phase 1, social assistance claims create doubts about rights of residence.

The absence of any clear carer's benefit that can be exported by pensioners is significant and potentially out of step with a Europe increasingly recognising the value of informal care in the context of an ageing and increasingly mobile demographic.

Winter Fuel Payment

This only applies to persons aged 60 or over. If a claimant has previously qualified for a winter fuel payment, s/he can continue to receive it if s/he subsequently moves to an EEA state. Only those migrants who have been aged 60 and ordinarily resident in the UK at the time will therefore be able to make later claims while abroad. Earlier migration may effectively forfeit the right to a winter fuel payment.

Disablement Benefit

As this benefit is dependent upon an industrial injury, and our case studies feature migrants who do not work in the host state, it is presumed that any such injury must have occurred in the UK, hence entitlement and initial benefit claim will have been established before migration – so exportation refers to existing claims, rather than new claims submitted while abroad. Disablement benefit can thus be exported to another EEA state and it will be uprated each year as it is in the UK. The constant attendance allowance and severe disablement additions to disablement benefit can both be exported indefinitely.

The rules on pensioners in receipt of family benefits

The only family benefits that are covered by Regulation 1408/71 as regards pensioners are family allowances – periodical cash benefits granted exclusively by reference to the number and, where appropriate, the age of members of the family (Article 1 u ii of Regulation 1408/71). This means that one-off family benefits or means tested family benefits are not necessarily exportable. The only family allowance listed in the Regulation by the UK is Child Benefit.

Child Benefit

Child benefit is dependent on the claimant being ordinarily resident in the UK and having a right to reside in the UK. It cannot usually be exported other than for the first few weeks of temporary absences which are unlikely to exceed 52 weeks (see Appendix). Usually the child must also be resident in the UK, but the exception to this rule does stipulate that the claimant must still be ordinarily resident in the UK.

However, Child Benefit is a family allowance, and so may be exported if the migrant is receiving a state pension (or another contributory benefit from the UK); or, if the claimant is eligible for a child benefit in the host state, and it is less than UK CB, the UK will make up the difference. The rules ostensibly allow exportation of existing claims and the submission of new claims from abroad.[12]

Child Tax Credit

This depends on being ordinarily resident in the UK. At the point when a claimant goes to live abroad permanently they will be considered to cease to be ordinarily resident. If going abroad temporarily, absences of longer than 8 weeks (or longer than twelve weeks if the absence abroad is in connection with the treatment of an illness or disability of her/himself or a family member) will mean that the claimant is no longer ordinarily resident.

[12] See: http://www.hmrc.gov.uk/childbenefit/living-working-abroad.htm

Christmas Bonus

Claimants will still be eligible for this while resident in an EEA state, and the conditions are the same as for those resident in the UK.

Cold Weather Payment

These are issued based on information gathered by weather stations linked to UK postcode areas. It is attached to social assistance benefits which are not exportable, so it is not exportable.

Funeral Payment

This is a payment from the social fund and although funerals in the EU may be covered, it is dependent on habitual residence, so our case studies would not be covered.

Housing Benefit and Council Tax Benefit

The above are social assistance benefits and are dependent on passing the habitual residence test and having a right to reside, so are not exportable.

Income Support

This is a special non-contributory benefit, listed in Annex IIa of Regulation 1408/71. As such it is not exportable. It may continue to be paid for the first few weeks of temporary absences (see Annex).

Bereavement Benefits

These only apply to those below pension age. Existing bereavement allowance/widowed parents allowance claims can continue to be paid in other EEA states, with annual increases. New claims, if a spouse or civil partner dies in another Member State are made through the social security authority of the host Member State, which will be obliged to convene with the UK authorities to determine total entitlement and apportion it according to contributions made there.

Bereavement payment

This is a one-off lump sum payment. If a claimant's partner dies while both are in another Member State, the claimant must return to the UK within four weeks of the death to be eligible.

Statutory Health Care

Treatment in the UK is dependent upon ordinary residence in the UK, other than for emergency treatment. Hence people migrating to other countries will need some form of health cover in those countries. In some circumstances that cover will be provided by the UK:

Migrants not yet receiving a state pension nor in receipt of a UK benefit: may be eligible for up to two and a half years of UK-funded state health care cover. To qualify claimants must prove that they have worked in the UK and paid sufficient (the necessary amount is fairly small and varies each year) National Insurance contributions up to three years before departure in order to get the E106 (voluntary contributions alone will not suffice).

Migrants receiving a state pension/long term incapacity benefit: are eligible for an E121 allowing long term UK funded treatment on the same basis as nationals of the host state. Returning to the UK is not totally straightforward, unless resuming ordinary residence in the UK. If instead, the return is temporary and for planned treatment, the patient will be charged in the UK, unless the host Member State authorities provide an E112.

Statutory Social Care Services

Access to UK social care services and funding is dependent upon residence in the UK, and is therefore not exportable.

Potential Gaps

The analysis presented above reveals various gaps in relation to welfare, health and social care should an older British national move abroad. Indeed, since social care services are

completely unexportable, this represents less of a gap and more of a complete absence: it is our feeling that an older British national who is dependent on social care services to enjoy their daily life would be advised to avoid moving abroad unless they have significant funds to buy-in replacement services in their chosen host state.

In relation to welfare benefits:

- Pensioner carers may lose entitlement to any carer-directed benefit, especially if reliant on pension credit and the carer's addition thereof;

- Carers receiving Carer's Allowance may find its exportability very limited if repeat claims are found inadmissible;

- Those who become carers while abroad may find they cannot access any UK care benefit;

- Those below 65 who become ill in the new member state and qualify for IB may find that their entitlement runs out once their short-term entitlement runs out;

- Those reliant on a means-tested income supplementing benefit – Income Support or Pension Credit - will not be able to export this;

- Those receiving a disability benefit – DLA if under 65 and AA if 65 or over - may find exportability of those benefits very limited if repeat claims are found inadmissible;

- Those who become disabled while abroad may find they cannot access any UK disability benefit;

- DLA mobility cannot be exported. As a special non-contributory benefit it is likely to count as a 'public purse' benefit in the new state.

In relation to statutory health care services:

- Migrants who have been abroad for longer than 2.5 years, and are not in receipt of either long term incapacity benefit or a state pension;

- Migrants not receiving a qualifying benefit and who do not have the contribution record for an E106.

These people will have to find out whether they can join the social security system of the host Member State, but the most likely avenue to follow is private health insurance.

In relation to social services:

- Migrants will lose access to UK based or funded social services (unless and until they resume ordinary residence in the UK),[13] and accessing social services in other Member States may render them an unreasonable burden and so jeopardise their residence rights.

Conclusion

While most claimants may reasonably expect to export contributory benefits, the rules on non-contributory benefits are quite complicated and claimants may not realise what they stand to lose (e.g. pension credit), or conversely what they may actually still be able to claim (e.g. child benefit as a pensioner in care of a child). Eligibility to both welfare benefits and health care in the host state (insured by the UK) can vary quite dramatically with age, as early retirees may be entitled to considerably less or to more finite and/or conditional coverage compared with those drawing a state pension from the UK. In this way, the timing of migration becomes a crucial determinant of rights eligibility. Whether short term Incapacity Benefit matures into long term IB will also depend on the timing of the migration relative to the onset of illness.

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[13] See *Shah v London Borough of Barnet* [1983] 2 W.L.R. 16 for definition of ordinary residence

The status quo in this area seems to be a state of flux, so if someone is considering migrating they should seek up to date advice if in receipt of benefits or if s/he considers that s/he may need benefits at some point in the future (all of our case studies are arguably high risk in that sense, as they will approach old age while abroad). The set of newly partly exportable benefits – AA, CA and DLA - may yet be found to be fully exportable, in that the UK may have to consider new claims made from UK nationals in other Member States, but for now the exportability regime applies only to existing claims.

The coordination regime is broadly set up to presume work or self sufficiency, with contributory benefits – particularly state pensions – being seen as 'own resources'. Thus the only real guarantees are for the state pension, with a strong presumption in favour of exportation of other contributory benefits. Benefits seen more as 'public resources' are harder to hang onto: social assistance benefits such as income support or pension credit will be lost on moving out of the UK. Disability benefits are subject - as yet not fully defined - limits on exportation, with DLA mobility lost outright. Care benefits exportability is either limited or lost depending on circumstances. The exportation of 'public fund' dependency is not facilitated, apparently not being a characteristic of the EU's 'ideal' mobile citizen.

Early retirees also face a state-funded health care 'black hole' between E106 and E121, which primarily disadvantages those who cannot afford private health insurance.

Retention of UK-funding for social services while resident in another EEA country is not possible, as Local Authority duties extend only to those 'ordinarily resident'. This could lead to disputes with regard to 'pendular' migrants who regularly reside in two Member States. The risk of becoming reliant on social care is ultimately a risk of paying for social care – which could be a massive financial burden unless would-be claimants return to establish ordinary residence in the UK.

Section 3: Country Case Studies

This section of the report focuses specifically on identifying and describing the statutory health, social care and welfare provision available for retirement migrants in the four case study locations: Cyprus, France, Germany and Portugal. It provides a comparative overview of the information provided by our individual country experts so that we can move on in Section 4 to identifying gaps in benefits and service provision for older British nationals who move to these countries.

As we have already noted in Section 2, you are allowed to receive your state pension despite your residence in another Member State. Moreover, if you are at state retirement age you can apply for an E121 from the Department for Work and Pensions which entitles you to the same state health care services as a national pensioner in your chosen host state (as long as you have registered your residency in that country). However, if you have not yet reached state pension age but have paid National Insurance Contributions for at least three years, then you will be entitled to an E106 form which acts in the same way as the E121. Importantly, however, this will only provide access to state health care in your chosen host state for two tax years - after that period, if you have still not hit state retirement age, then you would have to arrange to join the sickness insurance scheme of the host state (if, indeed, you can as some countries have strict rules about this - see especially France) or arrange for private health insurance.

France

France is an especially interesting country case study given the increasing number of permanently resident Britons in France (Gervais Aguer-Aguer, 2006) and, perhaps more controversially, the French government's u-turn on its decision to revoke access to state health care from early retired EU migrants resident in France.[14] Previously most inactive British residents in France qualified for French state health insurance - part of the sécurité sociale called the CMU (*Couverture Maladie Universelle).* This access was 'cut off' in

[14] See the Health Insurance Magazine, 25 January 2008, available at: www.hi-mag.com/healthinsurance/article.do?articleid=20000107043&adname=his_search&term=expats+france

response to growing pressures on the French health services, but the limited government u-turn meant that a 'phasing out' approach has been adopted. Those already receiving state health care could continue to do so. However, newly arrived migrants must abide by the new rules; if they do not work in France, they must be covered by the UK's health insurance system under either the E106 or E121 (see below), or have private insurance.

Health Services

Inactive British residents in France are obliged by law to have health insurance if they are not covered by the state. Cover for non-working British nationals is by virtue of: them being a French citizen (after five years of residency); possessing a valid E121 or E106 form; or through being a dependent of a person legally entitled to state healthcare. Importantly, the system is based on reimbursement. To reclaim costs incurred during treatment, CPAM should be contacted and residents will need to provide: a treatment form (*feuille de soins*); copies of receipts and prescriptions; a copy of their E121 or E106 form; an address of residence; and bank details where necessary. An average of 70 percent of the cost of medical treatment is refunded to patients. The exact level of the refund depends upon: the treatment needed; its costs; and the income of the patient.

Sandier and colleagues (2004: 39) list the medical goods and services that can be reimbursed by the state insurance scheme:

- the costs of outpatient care provided by general practitioners, specialists, dentists and midwives;
- diagnostic services and care prescribed by doctors and carried out by laboratories and paramedical professionals (nurses, physiotherapists, speech therapists, etc.);
- the cost of pharmaceutical products, medical appliances and prostheses prescribed and included in the positive lists of products eligible for reimbursement;
- the costs of prescribed health care-related transport.

The NHS Choices website states that the standard rate for a consultation with a GP is €21 and with a specialist it is €25.[15] For hospital treatment, the fees vary again: our country expert states that the basic doctor's/ hospital fee for emergencies is between €42 and €75 depending on the service and time of day. The patient must pay the doctor directly and then seek reimbursement from CPAM - however, reimbursement rates differ according to the service used, the condition under examination and the status of the patient. According to our country expert and the ISSA (2006), for appointments with GPs around 70% of the standard treatment cost can be reclaimed; prescriptions are only reimbursed if they are issued with a form - the *feuille de soins* - and then reimbursement varies between 15% and 100% (very few prescriptions are reimbursed in their entirety); and for emergency hospital treatment, fees are reimbursed up to 80%. Only disabled children, war victims and work accident beneficiaries are exempt from these fees - and our case studies do not reflect these special categories. Such costs appear particularly excessive when we compare it to the free health care for retired people available in Cyprus, Portugal and the UK.

Until recently, access to the CMU was available to all residents in France, regardless of nationality and whether working or retired. Changes were made in terms of eligibility in Autumn 2007 and resulted in much media and political furor (Skovgaard, 2008; Montague and Smith, 2007). These changes now mean that anyone under British retirement age and not working no longer has a right to French state healthcare funded by the UK once they have lived in the country for two years (unless during that period they have become eligible for an eligible UK contributory benefit, such as UK state pension or IB, they will not be entitle to French state health care funded by the French state unless qualifying for permanent residence under EU law, French citizenship through residence (both being dependent on 5 years of residence) or for French nationality by marriage.[16] The French government require all inactive EU citizens under retirement age living in France who are not entitled to free healthcare to have their own personal health

[15] Taken from: http://www.nhs.uk/healthcarefrance/Pages/healthcarefrance.aspx
[16] After a year's married residence in Francem provided marriage ongoing, and on condition of a declaration. See The British Embassy in France website - http://ukinfrance.fco.gov.uk

insurance.[17] Skovgaard (2008) warns that this can cost in excess of €2,000 per annum. This has particular implications for those older British migrants who have not yet reached state retirement age and moved to France after November 2007.

Social Care

There is mixed provision for social services in France: unsurprisingly, very few services are wholly state funded and the void has been filled predominately by the voluntary sector (see Archambault, 2006) with partial funding from local health insurance boards. Sandier and colleagues (2004: 80) notes that whilst residential care is often outside the remit of the state health insurance scheme, any health care provided within those residential places is funded by the scheme and therefore recipients can seek reimbursement:

> "Institutions financed by the health insurance funds to provide health care to elderly people include: (1) so-called "retirement homes", in which the level of health care provided is classified in two categories according to the severity of cases; health care is financed by the health insurance funds in the form of daily allowances of €3 for routine health care and €23 for more heavily dependent people…and (2) long-term care, provided in autonomous nursing homes or in hospital wards, for very sick and dependent people; the per diem rate is €41…In these institutions, medical care and nursing are entirely financed by the health insurance funds; there is no co-payment. However, the costs of residential accommodation, borne by the patient or their family, is high (around €40–45 per day). For people with low incomes, the costs of residential accommodation may be financed by the general councils".

Again, as these assessments are means-tested, it is unlikely our hypothetical retirement migrants would qualify without invalidating their right to residency (through the 'sufficient resources' qualification). Despite our best efforts, we have been unable to secure a firm answer as to the level of sufficient resources France lays down - this is not

[17] According to personal communication from 'Centre des Liaisons Européennes et Internationales de Sécurité Sociale'.

too surprising as the European Commission itself notes that Member States may not "lay down a fixed amount which they regard as 'sufficient resources'".[18] Moreover, there is a shortage of such places across France (Sandier, et al, 2004; Archambault, 2006) so even if a retirement migrant did qualify for such help in their own town or village, then the scarcity of such assistance may prove a much more difficult hurdle to overcome.

Our country expert also alerted us to the state-run 'Seniors on Holiday' programme coordinated by the ANCV (National Agency for Vacation-Cheques). It gives elderly people with modest incomes direct financial assistance with their holidays. To qualify, people must be at least 60 years old, and neither the beneficiary nor his or her spouse can be employed. They must be willing to pay for transportation to the vacation venue, and also be resident in France[19]. Our expert foresees no reason why the hypothetical retirement migrants aged over 60 could qualify for this service.

Welfare Benefits

France does have a competent welfare system but most of its benefits are contributory and earnings-related (Mandin and Palier, 2002; Siim, 2000). Our four hypothetical retirement migrants do not have a contributions record in France nor are they engaging in any paid employment whilst resident there. This will prevent them from being able to access any of the old-age means-tested and needs-assessed benefits available to home nationals, such as: permanent disability pension (equivalent to the UK's Attendance Allowance and Carers Allowance); *Allocation Aux Adultes Handicapés* (like Disability Living Allowance); French sickness allowance; state pension; and death grants paid to the relatives of the deceased by the local Health Insurance Fund (*Caisses Primaires d'Assurance Maladie*). There are complex sets of rules regarding the earnings contributions for each of these benefits. At the most basic level, in order to be eligible for these benefits, our hypothetical retirement migrants must: (1) register with the social security system for at least a year; (2) secure employment and have contributions on

[18] We discuss this further in the concluding section. But for the direct quotation, please see: http://ec.europa.eu/youreurope/nav/en/citizens/living/right-residence-more-3-months/for-other-citizens/index_en.html

earnings equal to 2,030 times the hourly guaranteed minimum wage (the *Salaire Minimum Interprofessionnel de Croissance*) twelve months prior to making a claim.[20] Therefore, in order to be able to make a claim for disability or death benefits, our retirees need to have had the foresight to establish a significant contributions record and be registered with the social security office at least a year before they need to make a claim - and rarely do any of us have such foresight.

Germany

Recent data from the DWP suggests that over 33,000 UK state pensioners reside in Germany (Sriskandarajah and Drew, 2006). However, there is scant attention paid to this particular flow of retirement migrants by academics: the focus has been more on those migrants pursuing retirement in sunnier climates.

Health Care

There is a compulsory statutory health insurance programme - *Krankenkassen* - for almost all German residents who must join one of the 300+ insurance companies (such as AOK, BKK or TK, to name three popular firms). Whilst contributions can vary depending on which company you choose to be your provider, expect to pay around 14% of your total yearly income.[21] This is regardless of whether or not you are a pensioner. The insurance company will issue a health insurance card which you should take with you whenever you see a doctor, dentist or specialist.

Some of the services covered by the state health insurance scheme - as outlined above - include:[22]

- Medical and dental treatment, with free choice of doctors and dentists;
- Hospital treatment;

[19] http://www.webinfrance.com/new-program-helps-retired-seniors-in-france-leave-on-vacation-131.html
[20] Information adapted from: http://www.cleiss.fr/docs/regimes/regime_france/an_0.html
[21] Taken from: http://www.med-kolleg.de/healthinsurance_e.html
[22] Taken from: http://www.justlanded.com/english/content/view/full/1012

- Drugs, dressings, complementary treatment, and aids such as hearing aids and wheelchairs;
- Sickness benefit (*Krankengeld*): Normally, your employer will continue to pay your wage or salary for six weeks if you are unable to work. After that your health insurance would pay 70 per cent of your regular wage or salary before deductions for a maximum of 78 weeks;
- Measures for the prevention and early detection of certain diseases;
- Preventive dentistry and in particular individual and group prophylactic measures;
- Preventive inoculations, excluding inoculations for non-work-related foreign travel;
- Orthodontic treatment, normally only up to the age of 18;
- Medically necessary dentures and crowns.

For other services, additional payments are required. The NHS Choices website notes that hospital care demands an additional fixed charge of €10 per day for a maximum of 28 days in a year, and for prescriptions, you will have to pay 10% of the cost subject to a minimum charge of €5 and a maximum charge of €10.[23] If your income is below a certain amount, these charges may be waived.

Social Care

Our country expert informs us that state-funded residential care services, home-care, respite care, home help, home adaptations, direct payments and meals (only if the recipient is over 65) are available to EU migrants in Germany. Claudius (2006) notes the national German constitution explicitly stipulates a right for the receipt of social services, with Pickard and colleagues (2007) pointing out that Germany is remarkable to other European states for having a national entitlement to long-term care for older people based on an assessment of dependency. In order to qualify for such benefits, individuals must "require help with at least two activities of daily living for more than 90 minutes a day over a period of six months" (ibid: 35). Importantly, there is no contribution record

[23] Taken from: http://www.nhs.uk/healthcaregermany/Pages/healthcaregermany.aspx

required for these services - it is a universal right to all permanent[24] residents of Germany. Sandier and colleagues (2004: 122) list the services available as: cash-benefits; social insurance contributions for family caregivers; professional care during holidays of family caregivers; short-term care; day-/night care; nursing aids and support technologies; ambulatory care benefits in-kind; nursing care in homes; and nursing care in homes for disabled. It is worth pointing out though that whilst these are state funded - on the assessment of medical need and means - many providers are private.

Welfare Benefits

Germany has a comprehensive system of welfare benefits. Importantly - and unlike the other Member States under study - the German system is not contributory so our four hypothetical retirement migrants are in a stronger position here to qualify for welfare benefits and services than they would be in Cyprus, Portugal and France. Our country expert informs us that a number of benefits are available to older British nationals' resident in Germany. These are means-tested and needs-assessed. They include: *Hilfe zum Lebensunterhalt* (which includes benefits comparable to Attendance Allowance, Disability Living Allowance, Cold Weather Payments, Funeral Payments; and Pension Credit); *Leistungen für Pflegepersonen* (like Carer's Allowance); *Krankengeld* (like Incapacity Benefit); *Unfallversicherung* (disablement benefit); *Kindergeld* (like child benefit); Wohngeld (housing benefit); and *Witwen-oder Waisenrente* (bereveament benefits).[25] However, there are fixed requirements - stated in German law[26] - an EU retirement migrant must satisfy before making a claim:

- Residence in Germany (there is no time limit here - as soon as you are formally resident in Germany (that is, registered your address with the relevant authorities) you have met this requirement;
- You are not an asylum seeker;

[24] To be a permanent German resident, your address has to be registered with the relevant authorities and you have to spend the majority of the year living in Germany (this may be a difficult rule for those retirement migrants who have dual residencies). See: http://lexikon.calsky.com/de/txt/w/wo/wohnsitz.php

[25] It should be noted that the German system does not use individual terms of specific benefits like we do in the UK - rather it uses umbrella terms like "Hilfe zum Lebensunterhalt" (supplementary benefits)and then describes a range of specific benefits that are available under that label.

[26] Taken from: http://www.sozialgesetzbuch-bundessozialhilfegesetz.de/buch/sgbxii/23.html

- You have not moved to Germany just to access social benefits (this is an explicit attempt to crack down on so-called 'welfare-tourists' - German authorities are making regular site visits to migrant's homes to ascertain whether they are genuine claims makers[27]);
- You have no ability to make a living on your own - this is the means-test. The specifics are: for men, the monthly income shall not be more than €404 (if over 65 years of age, but €345 if under 65) and his total savings should be less than €2600 (if over 60 years of age, but €1600 if he is younger than 60); for women, the monthly income shall not be more than €323 if over 65, but €276 if under 65 years of age) and her total savings should be less than €614.[28]

It is important to note what Germany is offering here to British retirement migrants: claimants do not have to have contributed to make such claims but they do need to have formal residence and their means have to be relatively low to qualify for such help. However, it is likely that our hypothetical retirement migrants would have means above these levels - the basic UK state pension alone would provide a monthly income of €465, well in excess of the level stated by German law. Nonetheless, those not yet in receipt of their state pension - so those who have taken early retirement and are not yet 65 years of age - may be able to qualify for such help as long as their income was low enough.

Portugal

Portugal has the sixth highest number of British pensioners claiming a UK state pension in Europe (Sriskandarajah and Drew, 2006). Portugal's attraction amongst British retirees - especially the Algarve region - has led to numerous empirical studies by academics (see especially, Ackers and Dwyer, 2002; Kings, Warnes and Williams, 2000; and Williams and Patterson, 1998).

[27] Read more at: http://www.morgenpost.de/printarchiv/politik/article413072/Strenge_Kontrollen_gegen_Missbrauch_von_Sozialhilfe.html

[28] The gender differences here are stark and suggest that the German welfare system works with very outdated assumptions about women and paid employment - but these insights are outside the scope of this particular research project. Taken from http://www.sozialhilfe24.de/sozialhilfeberechnung.php

Health Services

Portugal's National Health Service - Serviço Nacional de Saúde (SNS) - was established in 1979 which established "a guaranteed universal right to health care (mostly free at the point of use) through the NHS and access to the NHS for all citizens regardless of economic and social background" (Barros and Simões, 2007: 16). In order to secure access to these services, EU migrants need to be in possession of a NHS user card (cartão de utente). These are available through application to your local surgery on production of your UK passport as well as your registration certificate (declaring you as a resident of Portugal). If you are already 65 years of age and in receipt of your state pension and have your E121 to hand, you can have immediate access to these services.[29] Our country experts have noted that if a migrant does not have either the E106 or the E121 and they do not contribute to the Portuguese national social security system - through employment, for example - they will have to pay for the health care services, auxiliary medical help, diagnosis tests and treatment according to standard, flat-rate charges. This situation does not change regardless of the length of time a retirement migrant has resided in Portugal. However, they can join the social insurance scheme if they return to paid employment: in order to qualify they need to have been in employment for a minimum of 36 months.

Barros and Simões (2007: 43) make the point that theoretically at least, no health services are explicitly excluded from NHS coverage but, on the ground, there is often a division:

> "The NHS predominantly provides direct acute hospital care, general practice and mother and child care. Specialist and dental consultations, diagnostic services, renal dialysis and physiotherapy treatments are more commonly provided in the private sector. For diagnostic services, renal dialysis and physiotherapy treatments this is typically done under contractual arrangements with the NHS. Most dental care is paid for out of pocket, as are many specialist consultations in private ambulatory

[29] Taken from: http://expatsportugal.com/residency.php

care…approximately 60% of specialist consultations take place in the private sector (e.g. cardiology)".

The fact that there is no official line on what services are actually available on the Portuguese NHS - in official rhetoric, all services are offered but there exists a strong culture of going private for certain treatments and consultations - make it a particularly risky public health service to rely on, whatever your personal situation. Private health insurance costs in Portugal vary according age, health situation and the chosen option of coverage, though very basic cover (minus dental care) for a couple in their late 50s will cost around €75 per month (with Médis - a leading Portuguese private health insurance firm). Interestingly, there is also an age limit for health insurance: once over 64 years of age, you cannot secure private health insurance. This might have particular implications for those early retirement migrants who have not yet reached retirement age and are therefore not in receipt of the E121 - they may be without healthcare services for 12 months prior to being issued with the E121.

Social Care

Barros and Simões (2007: 107) note that there are scant state-provided social care services in Portugal despites its burgeoning ageing population. Ackers and Dwyer (2002) point out that in common with other southern European welfare states, the social expectation in Portugal is that informal care provided by family members should meet the needs of elders. Nonetheless, there are some social care services part-funded by the state that EU migrants could access as residents in Portugal through applying for:

- *Lar de idosos* (homes for older people): temporary or permanent accommodation for older persons at major risk of losing their independence and/or autonomy;
- *Serviço de apoio domiciliário* (home care support service): Individualized personal care at home for individuals and families who, due to illness, disability or other problems, cannot satisfy their basic needs and/or perform daily life activities on a temporary or permanent basis. This may include hygienic care, meals, small shopping

and cleaning services. Priority is given to older people, people with disabilities and people in a dependency situation;

- *Acolhimento familiar para pessoas idosas* (family fostering for older people): Temporary or permanent care provided by a selected family in their own home for older persons who cannot stay at home due to the absence of family members and/or inadequacy of social services. It is available for people aged 65 years and above.
- *Centro de noite* (night care centre): Centre to cover the overnight period. Priority is given to older people (65 years and above) with autonomy who live in a situation of loneliness, social isolation or insecurity and who need company and support overnight (although people can live in their own homes by day). People with less than 65 years can also require this service but their case will be appraised individually.

It is unclear whether such services are contributory - our country experts are seeking clarification of this matter. However, these services are strictly means-tested by social workers at the local Social Security Services and it is unlikely that EU migrants would qualify for this help since if they did not have a sufficient income, then they may be invalidating the conditions of their residency (see Section 2). Moreover, even if they did manage to qualify for this help, these services are not fully funded by the state and co-payment is required: a complicated calculation - the claimant's total household income, minus their fixed expenses divided by the number of individuals within the household - is used to assess the level of co-payment required.

Welfare Benefits

Our country experts informed us that there were no references to the ineligibility of EU migrants in making claims to access Portuguese welfare benefits. However, the Law N. º 32/2002 (December 20th) that regulates the Portuguese Social Security has an article (8th – principle of equality) establishing that beneficiaries cannot be discriminated against due to their gender and nationality, notwithstanding, as to this last, to residency conditions and reciprocity. This also includes an article that establishes the access conditions to the Portuguese Social Security benefits and programmes for non-national citizens – article 56th; this article states that the access to the guaranteed social protection under the

solidarity subsystem may depend on the verification of certain conditions, namely minimum periods of residency. Here, an individual is considered as legally resident in Portugal when: (1) they have stayed in Portugal for more than 183 days, continuously or intercalated; or (2) or they have stayed in Portugal for a smaller period as long as, on December 31st 2007, they had a house in such conditions that it may be assumed that he/she will keep it and will occupy as his/her own regular home.

Importantly, there are two welfare schemes operating in Portugal: (1) a contributory social insurance scheme that requires contributions; and (2) a non-contributory welfare assistance scheme which depends on a means-test. It is this second scheme that has relevance for our hypothetical migrants. As long as they have satisfied the residency criteria (see above), EU retirement migrants can make claims to a number of benefits, these include: *Complemento por dependência* - long term care supplement similar to Attendance Allowance; *Subsídio mensal vitalício* – a lifelong monthly benefit (similar to Disability Living Allowance); *Pensão por invalidez* - invalidity pension; *Pensão por velhice* - an old age pension paid out monthly; *Rendimento Social de Inserção* - a social insertion income (like an add-on benefit to the social pension); *13th month* - a one-off Christmas bonus benefit; *Subsídio de funeral* – a flat-rate funeral grant; *Subsídio de renda* – housing rent allowance (for those in rented accommodation only and on a low-income); *Isenção do pagamento do Imposto Municipal sobre Imóveis* – council tax exemption on a domestic property (if the annual household income is less than €10,000 and the house is valued at €50,000 or lower; *Complemento solidário para idosos* - solidarity supplement for older people that is similar to pension credit; and *Subsídio por morte*- a death grant. There are no winter fuel payments available in Portugal. However, as we have said before, the means-tests applied to these benefits would make it very difficult for our hypothetical migrants to qualify for such assistance. For the *Rendimento Social de Inserção* - a supplement to a state pension - the total household income needs to be less than €4,800 per year for a single claimant, and €8,400 for a couple.[30] The UK state pension alone would generate a yearly household income for a single person of €5580.

[30] Taken from: http://www.ssa.gov/policy/docs/progdesc/ssptw/2008-2009/europe/portugal.html

Cyprus

The Republic of Cyprus joined the EU in 2004. It is an increasingly significant receiver of British migrants: barring Greece, the UK is responsible for the largest influx of EU citizens into the island every year (European Migration Network, 2003)

Health Services

In 2001, a law was passed in Cyprus to create a National Health Service and that project is expected to be finalised in late 2008.[31] The system as it currently stands however is a mixed bag, incorporating public health provision, private health provision, funds for medical care by employers and trade unions, scheme for sponsored patients abroad and private health insurance schemes (Golna, et al, 2004). For the purposes of this analysis, we are only looking at statutory health care services - here, Cyprus's public health care system is not universal but is means-tested so free health care is only guaranteed for certain groups: "government employees, individuals earning less than 9000 Cyprus pounds (CYP)[32], households earning less than CYP18 000 per year, and households with more than four children. Individuals with an income between CYP9000 and CYP12 000 and households with an income between CYP12 000 and CYP22 000 pay 50% of the prescribed rates" (Antoniadou, 2005: 1018). As such, older British nationals wanting to make free use of these services - who had not yet reached state retirement age where they would make use of the E121 form to gain access to such services - would need to have an individual annual income below £12,328. We have been unable to ascertain whether or not having an income below this would mean our retirement migrants have invalidated their residency requirements through having insufficient resources,[33] but we do know that if they were in receipt of the UK state pension alone, then they would qualify for free

[31] Taken from: http://ec.europa.eu/employment_social/missoc/2008/01/2008_1_cy_en.pdf

[32] It should be noted that Cyprus adopted the Euro on 1 January 2008 - the fixed conversion rate is €1 = 0.58 CYP.

healthcare (as the total annual income would only be £4,716.40). There is also free access for people who have "chronic, life-threatening diseases" (Golna, et al, 2004: 28) but we have been unable to ascertain what those diseases are and there is some debate on expatriate forums as to whether there is any consistency with regards to the chronic diseases that enable free access to such services.[34]

The Ministry of Health website details the list of health care services provided.[35] These include:

(i) Out-patient care by general practitioners and specialists care to both out-patients and inpatients;

(ii) The necessary drugs and pharmaceutical material;

(iii) Diagnostic and paramedical examinations;

(iv) Hospitalisation;

(v) Dental care, except for dentures which are provided to certain low income groups;

(vi) Medical rehabilitation and provision of prosthetic and orthopedic appliances;

(vii) Domiciliary visiting, in exceptional cases (for saving life or averting serious disability);

(viii) Transport of the patient as his condition requires.

There are four administrative districts in Cyprus - Nicosia, Larnaca, Limassol, and Paphos[36] - and it may well be the case that the range of health services available at these different sites varies considerably. For some specialist hospital care, people may have to travel to the main capital Nicosia to see certain medical professionals (indeed, the

[33] Enquiries are, as yet, unanswered: we have requested confirmation from the Ministry of Interior, the British High Commission in Cyprus and the Citizen's Signpost Service of the European Commission.
[34] See: http://www.expatforum.com/expats/cyprus-expat-forum-expats-living-cyprus/7627-health-care-info-please.html
[35] Taken from: http://www.moh.gov.cy/moh/moh.nsf/ehic09_en/ehic09_en?OpenDocument
[36] Whilst we are dealing with the Republic of Cyprus which has claimed 100% sovereignty over the entire island, in reality this only focuses on the southern part of the island. The northern territory - the Turkish Republic of Northern Cyprus - is not acknowledged by the EU and so it outside the focus of this work.

Foreign and Commonwealth Office state that seriously ill patients are almost always sent to the relatively new state hospital in Nicosia that opened in 2006).[37]

Social Care

The Social Welfare Services Department of the Ministry of Labour and Social Insurance is responsible for the co-ordination of state-funded home-care services, day-care services and residential care services. These services are delivered locally and are means-tested - applicants need to complete a Public Assistance application form and submit it to their District Social Welfare Services Office. A recent report by MISSOC (2006) notes that a domiciliary care allowance is available that can be paid directly to the dependent person. The allowance can vary from €34 to €345 per month, dependent on the care needs' assessment conducted by local welfare officers. All Cypriot residents can apply for such services but not all will qualify for full state funding for such services because the means-testing is so rigorous.

Welfare Benefits

As a small island, it is perhaps unsurprising that the types of welfare benefits available to Cypriot citizens is much smaller than compared to the other Member States under consideration here: there are only 14 types of benefit across the entire lifecourse that Cypriot citizens can claim. However, it is contributions-based and without any payment into the Cypriot social security system - even though they are ordinarily resident in Cyprus - our hypothetical retirement migrants would be unable to claim funeral grants, sickness benefit, invalidity pensions, old age pension; widow's pensions and death payments. Cyprus's welfare system is about to undergo a major overhaul so this picture may change in the coming years.

[37] Taken from: http://www.fco.gov.uk/en/travelling-and-living-overseas/travel-advice-by-country/europe/cyprus

Comparison Table of Health, Welfare and Social Care Benefits and Entitlements Across 5 European Countries*

	UK	**France**	**Germany**	**Portugal**	**Cyprus**
Pensions State pension	Category A - fully exportable Category B- fully exportable Category D – non exportable				
Welfare/ Social Assistance		Mainly contributory-earning related mean-tested benefit Eligibility criteria: Registered with social services for at least a year. Minimum qualifying employment contributions 12 months prior to making a claim.	Non-contributory means-test/needs-assessment. Eligibility criteria: Below means-test threshold.	2 welfare systems 1) Contributory social insurance and 2) non-contributory means-tested welfare assistance. *Eligibility criteria: must satisfy residency criteria and contributions where applicable*	Contribution-based *Eligibility criteria:* Previous contributions/payments

	Benefits: Pension Credit *Non –exportable* Long term incapacity Benefit (Invalidity benefit) *Exportable, must be below qualifying age limit,* Short-term incapacity benefit (Sickness benefit) – exportable but exportation may mean it does not lead to IB long term Disability living allowance Attendance Allowance Carers Allowance *Above 3 benefits currently*	Benefits: Permanent disability pension – Attendance Allowance/Carers Allowance. Allocation Aux Adultes Handicapés – Disability living allowance Sickness allowance Death grant	Benefits Krankengeld – Sickness Benefit Hilfe zum Lebensunterhalt – includes Attendance Allowance, Cold weather payments, Funeral payment, Pension credit Leistungen fur Pflegeoersonen – carers allowance Witwen-oder Waisentente – bereavement Wohngeld –housing benefit ***Receipt of full UK pension will take recipients over threshold***	Non contributory benefits: Complemento por dependência – Attendance Allowance Subdidio mensal vitalício Disability living allowance Pensão por invalids – invalidity pension Pensão por vekhice – old age pension Rendimento Social de Inserçao – pension credit 13th month – Christmas bonus Subsídio de funeral –funeral grant	Benefits: 14 benefits available. UK migrants ineligible unless previous payments made. **Welfare system undergoing major overhaul, system may change in next few years.**

	viewed as partly exportable. Awaiting further clarification from DWP and ECJ Pensioner 'underlying entitlement' to carers allowance Unclear Winter fuel payment – exportable (existing claim only) Disablement Benefit – Exportable if injury occurred in UK prior to migration Bereavement Payment – *must return to UK within 4 weeks of death to be eligible* Bereavement Benefits *Must be below pensionable age –* *Existing claims – exportable* *New claim made via social service in host country* Christmas Bonus - *exportable* Cold Weather Payment – *non exportable* Funeral Payment – *non exportable* Housing & Council Tax Benefit – *non exportable* Income Support – *non exportable*			Subsídio de renda –housing allowance Isenção do pagamento do Imposto Municipal sobre Imovies – council tax exemption Subsidio por morte –death grant. **Rigorous means-testing makes qualification v. difficult for UK pensioners**.	

Social Care	Non -exportable	Mixed provision, very little fully funded state provision. Eligibility criteria: means-tested. EU nationals unlikely to qualify without invalidating rights to residency. National Agency for Vacation-Cheques (ANCV) Financial assistance with holidays for 60yrs + on modest incomes	Eligibility criteria: 65 yrs + Universal non-contributory for all permanent residents. Services**:** Cash benefits Nursing aid Residential care Home care Respite care Home help Home adaptations Direct payments Meals	Scant social care provision. Informal care generally provided by family: Eligibility criteria: Means-tested. Receipt of UK pension likely *to take* recipients over threshold Services: Part state funded. Eligible Social Services provision include: Lar de idosos (long term care), Serviço de apoio domiciliario (home care) Acolhimento familiar para pessoas idosas (older people family fostering) Centrode noite (night care centre)	Eligibility criteria: All Cypriot residents able to apply, but subject to rigorous means-testing. Services: Home care Day-care Residential care Domiciliary care allowance
Long term care			Non-contributory dependency based assessment eligible to all permanent residents.		
Health	Statutory Health Care - NHS Ordinarily dependent on habitual residency in the UK, health cover in host country normally required. Exceptions – E106 - Eligible for 2 ½ yrs UK funded health care if not in receipt of pension of or	Eligibility criteria: already in receipt of health care, French citizen, dependent of person legally entitled to healthcare. Services: Outpatients Diagnostic services Pharmaceutical products Medical appliances	Krankenkassen - Compulsory statutory health insurance. Eligibility criteria: Approximately 14% annual income contribution required. Services: Medical & dental Hospital	Serviço National de Saúde - Universal health care for all Portuguese citizens. Eligibility criteria: NHS user card – acquired with proof of Portugal registration certificate & UK passport. If 65 yrs+ proof of state pension and E121 only required.	Non-universal means-tested. Eligibility criteria: Annual individual income below £12,328 Free access for people with chronic life threatening diseases. Services available: GP (in & out patients) Medication &a

	UK benefit. Must meet NI contribution requirement. E121 – Eligible for long-term UK funded treatment, same as nationals of host country. Must be in receipt of state pension/long-term incapacity benefit	Prostheses Health care related transport Approx. 70% of costs reimbursed. All inactive EU residents, under retirement age required to have private health insurance, once they have lived in France for 2 yrs.	Drugs, dressing , complimentary treatment Aids and wheelchairs Preventative dentistry for certain groups Medically necessary crowns Prevention and detection of certain diseases Preventative inoculations (excluding work) Additional top up payment required for other services.	Services: No official line on range of services available. Strong culture of private health insurance	pharmaceutical material diagnostic & paramedical Hospitalisation Dental care Medical rehabilitation Prosthetic & orthopaedic Patient transport

* Age Concern England have constructed this table on the basis of the information provided by the research team - it is intended as a broad-brush snapshot of the situation regarding British retirement migrants' eligibility for statutory health, social care and welfare benefits in the four country case studies. We would urge people to use this table as a starting point in working out their eligibility for such benefits and services in the individual countries from which they can then chase the relevant departments to receive the final word as to what they are entitled to as EU citizens resident in a host Member State.

Concluding Comments

This section has sought to reveal the statutory health, welfare and social care benefits and services that EU retirement migrants might be able to access in Cyprus, Germany, France and Portugal. For us, there are three main issues that arise from this analysis:

1. There is a dearth of information available to EU retirement migrants on specific benefits and services available within each Member State - and the UK is not immune from this criticism either. It has taken some considerable effort by our country experts and ourselves to secure even the most basic information as to what is available in each of the countries under study. If we have been unable to find this information through many hours of desk-based research, telephone calls to local health, welfare and social care officials and email enquiries, then we wonder how difficult it must be for the individual British retirement migrant to work on - often in times of crisis - what benefits and services they can access in their new Member States.

2. As we have highlighted in Section 3, the means-tested element of many of the benefits and services available in the four study areas may mean that EU retirement migrants - by virtue of having 'sufficient resources' in order to secure their residency - are unable to qualify for assistance. We have been unable to secure precise amounts as to what 'sufficient resources' mean for residence in Cyprus, Portugal, Germany and France - this is despite numerous enquiries to relevant government departments, British embassies and individual legal practitioners. The European Commission itself notes that the host Member State may not work with a fixed amount which they regard as insufficient - they may in fact work on a case-by-case basis. It does state that the amount "shall not be higher than the threshold below which nationals of the host Member State become eligible for social assistance, or, where this criterion is not applicable, higher than the minimum social security pension paid by the host Member State".[38] However, the basic UK state pension amount - not withstanding any savings or private or occupational pension provision our retirees may also have access too -

[38] Taken from - http://ec.europa.eu/youreurope/nav/en/citizens/living/right-residence-more-3-months/for-other-citizens/index_en.html

will more than likely mean their financial resources disqualifies them from social assistance in these Member States. This is particularly the case when retirees are moving to Member States - such as Portugal and Cyprus - where the costs of living are lower than they are in the UK and the basic UK state pension alone is higher than the guaranteed minimum wage in these countries (the Federation of European Employers[39] notes that Portugal's minimum wage rate for 2008 is €426 per month, whereas the UK state pension in 2008 provides €465 per month).

3. Barring Germany, the other key issue guarding access to statutory health, welfare and social care benefits and services is contributions. All four of our hypothetical retirement migrants had not contributed to the social security systems of the Member States they were joining. As such, their eligibility to the full benefits and services packages available in the three Member States was restricted by virtue of their non-working status. This is something to consider for all British retirees seeking a move abroad - they should ensure their incomes are significant enough to pay for private health and social care services since their lack of contributions will mean they cannot access such services as of right.

[39] http://www.fedee.com/minwage.html

Section 4: Some Conclusions

What we have presented here is a comparative analysis of the available statutory health, welfare and social care services older British nationals can make use of whilst resident in another Member State. Of course, whilst these social rights might be available to retired EU citizens in a formal sense, the extent to which they are accessible to those same citizens *on the ground* might differ quite significantly. EU law has certainly expanded the ostensible social rights in relation to health, welfare and social care benefits and services available to retirement migrants in recent years - and our research partially reflects that - but what we have not explored is the real-life situations and experiences older British nationals may have faced in these countries in attempting to secure such benefits. As Elspeth Guild warns us (2006: 10):

> "The brave new world of an integrated Europe has yet to reveal how it will be used by its elderly. The rights of free movement, pensions and access to benefits will only become clear when the individuals who are nominally entitled to them begin to use them and challenge the interpretation of national administrators".

Grounding our insights in to the previous parts of the report, Section 2 uncovered some worrying risks for older British nationals who were in receipt of certain benefits should they move to another Member State. We outlined in very clear terms the 'losses' retirement migrants would face should they move to another Member State - it is important that British retirement migrants are aware of these debits since their ability to fund their lives abroad may be severely hampered even before an imminent health or social care crisis occurs. We also feel that the available resources as to what UK benefits and services are exportable may serve to confuse people. Some may get confused about benefits being 'partly exportable' and not realise that for some of them that just means for temporary absence; it does not mean that they can continue to receive child benefit, for instance, for eight weeks after they move–because it is an intended permanent absence. It is the intention to make the move permanent which in fact renders some benefits un-exportable (like pension credit, also).

Section 3 described explored the statutory health, welfare and social care benefits and services available to older British nationals in Cyprus, France, Germany and Portugal. It did reveal some worrying gaps: the contributory nature of most welfare systems (barring Germany) effectively means that our hypothetical retirement migrants who are without contributions records in their host Member States are ineligible to claim certain benefits and services that might be vitally important should their personal circumstances change whilst abroad. Moreover, we have identified a possible conflict between the criteria for residency rights (possessing "sufficient resources") versus the social rights delivered through EU citizenship that grant access to health, welfare and social care benefits and services through means-testing (a declaration of "insufficient resources"). For retirement migrants, they are truly caught between a rock and a hard place: in order to secure their residency, they need to prove they have sufficient resources so not to be a burden on that Member State, at the same time, having those funds makes them ineligible for much social assistance should they need it. Nationals do not need to satisfy the 'sufficient resources' criteria so are not caught in the same situation. This is something the European Commission should seek to explore further - the situation effectively disadvantages older retirement migrants from residing freely in the EU.

Perhaps the biggest risks, especially in terms of health care provision, are to be faced by those who take early retirement and move abroad. The situation in France is a case in point: changes to the eligibility criteria for their state health care mean that those living in France with an E106 are now not automatically entitled to use the state system. They are without statutory cover and have to rely on private health insurance. Germany's health system - grounded as it is in a compulsory health insurance programme - appears superficially at least to be expensive when compared to the other Member States. Free-at-the-point of use systems - such as Cyprus and Portugal - might appear 'cheaper' to the British retirement migrant, but, of course, the quality of that health care may be lacking (an issue faced by nationals of that country as well). Whilst social care services are available in the four country case studies, we would still reiterate our point that if people

here in the UK are heavily dependent on social care services to live their daily lives, then we would urge them not to make a move to another Member State.

Future Research Priorities

For us, the next steps towards understanding this deeply complicated area have to be focused on securing more expert opinion from those working inside the health, welfare and social care systems of those particular countries as to whether or not access to those listed benefits and services is actually possible for older British migrants living in those Member States. Our country experts found the task particularly challenging and, to some extent, some of the information we have uncovered about access to benefits and services is untested in a real-life situation and has been garnered from the available data from government departmental websites and leaflets from each Member State. We would suggest speaking to social workers, welfare officers and medical administrators themselves in each of the Member States to ascertain their views on the extent to which older British migrants would be able to access the health, welfare and social care services and benefits we have identified (see Le Bihan and Martin (2006) for an approach that successfully engages the expertise of street-level professionals to ascertain the care packages available for different groups of elderly people).

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Annex

Specific temporary absences rules
Temporary absence and IB:
Claimants can continue to receive short term IB for 26 weeks in another EEA state if:

- going abroad for medical treatment for a condition which began in the UK; *or*
- going abroad for medical treatment for an industrial injury which occurred before 4 July 1948; *or*
- having been continuously incapable of work for six months before the date of departure and continues to be incapable of work while abroad.

The 26 weeks of benefit may be extended if the above conditions are met *and*:-

- receiving attendance allowance or disability living allowance which continues to be paid for more than the first 26 weeks of a temporary absence; *or*
- temporarily absent from the UK because s/he is a relative accompanying a serving member of the forces.

Temporary absence and Child Benefit:

Child benefit may continue to be paid of the claimant is temporarily outside of the UK, for:

- the first eight weeks of any temporary absence; *or*
- the first twelve weeks of any period when the claimant is temporarily absent from the UK because of a reason connected to the treatment of an illness or disability of the claimant, or the treatment of an illness or disability or the death of her/his partner, her/his child, her/his partner's relative or a relative of the claimant.

Temporary absence and Income Support

A claimant over 19 years old, capable of work, not receiving an urgent cases payment and not involved in a trade dispute will retain entitlement to income support for up to four weeks of an absence abroad provided that s/he still meets the usual conditions of entitlement and intends to return within a year.

A claimant incapable of work may retain entitlement for up to four weeks if the purpose of her/his visit is to receive treatment for her/his incapacity, or if s/he has been incapable of work for 364 days (196 days if s/he is terminally ill or entitled to the highest rate care component of disability living allowance).

A claimant taking a dependent child abroad for medical treatment can continue to receive IS for up to eight weeks.*Temporary absence and ESA*

The ESA short absence rule applies for four weeks. It enables ESA customers to continue to be entitled to and paid ESA for that period. It requires the customer to continue to meet all the other conditions of entitlement to ESA during the absence. Under the ESA Regulations there is no need for the customer to be sick for six months prior to date of departure from GB.