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Barry Ashcroft

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Reference FOI-1107

Date 24 November 2017

By email to:
request-441233-7fa3730a@whatdotheyknow.com

Dear Mr Ashcroft,

FREEDOM OF INFORMATION REQUEST: POLICE AND FIREFIGHTERS' PENSION SCHEME

Thank you for your request of 27 October 2017 for information relating to the National Audit Office's (NAO)'s publication: 'Investigation into Police and Firefighters' Pension Scheme commutation factors.'

You quoted sections of the report and asked questions as follows:

"In your report entitled -

*Government Actuary's Department
Investigation into Police and Firefighters' Pension Scheme commutation factors*

you state at -

"2.6

In November 2002, the Office of the Deputy Prime Minister (then responsible for the Firefighters' Scheme) enquired about the value of benefits being provided by the scheme. GAD's response noted that the life expectancy of firefighters in retirement, used to calculate the commutation factors, had been set at the same level for many years. GAD also noted that other public sector schemes were reflecting increased longevity in their assumptions and that, in the absence of firefighter-specific data, the public sector scheme assumptions would probably be used for the Firefighters' Scheme. This suggests that GAD had reasonable knowledge that the commutation factors did not reflect those in use across other public sector schemes."

Furthermore, you add at -

"2.7

In April 2004, in response to a formal request from the Office of the Deputy Prime Minister to review actuarial assumptions, GAD noted that improvements in life expectancy had exceeded all previous expectations and commented that the commutation factors would probably be found to be too low. Further internal emails substantiate this point, as highlighted within the Ombudsman's determination. However, at this stage an explicit statement that the factors no longer bore actuarial equivalence was not made. It was also noted in internal emails that, even if the factors were found to be accurate, GAD was still concerned that they had not been reviewed frequently enough.

2.8

During this period, GAD provided assistance in relation to the implementation of the new Police Pension Scheme. In November 2005, GAD commented in an email to the Home Office (HO) that many of the extant

factors were out of date and that they would have difficulty recommending that they be used for the new scheme. The similarity in nature between the Police and Firefighters' Schemes means decisions on one scheme have significant relevance to the other.

2.9

Life expectancy on retirement increased significantly throughout the late 90s and 2000s. This has a commensurate impact on commutation factors, if the impact has not been factored into the assumptions, as individuals are sacrificing pension payments over a predicted longer period, resulting in increases to the lump sum payments. GAD was aware of these trends through its actuarial role across the government's pension schemes.

2.10

It is clear, therefore, that GAD was aware of the mortality trends which affect commutation factors. This was a broadly known trend and even had GAD not known the exact effect, they would have been aware that it was likely to materially affect commutation payments in the Police and Firefighters' Pension Schemes. In addition, GAD had historically prepared commutation factors for these relevant schemes and the fact that it was no longer producing them should have been raised with the pension schemes to consider whether this was appropriate. Even if GAD was correct in its reading that it did not have a statutory duty to prepare the tables, it had a duty to ensure the departments were fully aware that the commutation factors did not reflect the underlying trends."

Clearly, GAD realised that the Commutation Factors in use were not fit for purpose. As you state at -

"2.3

The general principle for actuarial equivalent factors is that they correlate to the number of years an individual would be expected to drawdown the pension. They, therefore, increase to provide a greater lump sum if the relevant population is anticipated to live longer."

Closer examination reveals that -

"2.4

Historically, GAD has prepared commutation factors proactively for the Police and Firefighters' Pension Schemes. Reviews took place in 1982, 1986, 1994 and 1998." &

"2.5

In July 1998, GAD reviewed the commutation factors applicable to the Firefighters' Pension Scheme. This review recommended that the commutation factors be reviewed three years later. However, this scheduled review did not happen and these factors were applied to lump sum payments up to 22 August 2006 for the Firefighters' Scheme."

You give an example of a commutation calculation at -

"Figure 3

Operation of commutation factors

Commutation factor – Example 1

Mr Smith has a pension which will pay him an annuity of £20,000 per year. The commutation factor relevant to him has been calculated as 15. He wishes to sacrifice £5,000 per year and take this instead as a lump sum. He will therefore receive $(15 \times £5,000) = £75,000$ as a lump sum, with annuity remaining of £15,000 per year."

It should be noted that, despite the GAD reviews mentioned at 2.4 above, the commutation factor remained at 15 from 1982 to 2006. (See Home Office Circular No.116/1982 - Fire Service Circular No 23/1982) As your report identifies repeatedly, the commutation factor between 1998 and 2006 would have been expected to rise.

(Q1) Was this also the case between 1982 and 1998?

"1.11

Since the formation of the schemes, police and firefighters have been able to commute a portion of their pension for a lump sum. Based on established trends in life expectancy throughout the late 1990s and 2000s

and given the requirement for actuarial equivalence, it is clear that during this period, the commutation factors applied to individuals in these schemes would be expected to increase."

(Q2) Can you please provide all information that you have to support this expectation of an increase in commutation factors and when exactly do you consider the "late 1990s and 2000s" to cover?

(Q3) What information do you have to show that GAD was aware of these increases in life expectancy?"

Your request is being handled under the terms of the Freedom of Information Act 2000 (the Act).

I can confirm that we hold one document in scope of your request. The document contains extracts from correspondence that the NAO was given access to during its investigation. We do not hold the original correspondence itself.

Please find the document attached to this letter's covering email. We have made one minor redaction of personal data under the section 40 (personal data) exemption of the Act. Details of this exemption can be found at Annex A.

Annex B provides our response to the specific questions you have asked.

I hope you find this response helpful. Annex C sets out the steps you should take if you are not satisfied with the way we have handled your request for information under the Freedom of Information Act 2000.

Yours sincerely



Philip Taylor

Head of FOI

Annex A

This annex sets out the exemptions that we have applied to your request

Section 40 – personal information

Section 40 of the Freedom of Information Act provides that:

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
- (2) Any information to which a request for information relates is also exempt information if—
 - (a) it constitutes personal data which do not fall within subsection (1), and
 - (b) either the first or the second condition below is satisfied.
- (3) The first condition is—
 - (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—
 - (i) any of the data protection principles, or
 - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
 - (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.
- (4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).

The exemption applies because:

Section 40(2) applies in relation to personal information relating to staff at the National Audit Office and other organisations, the disclosure of which would breach Data Protection principles. It is our policy not to release the names of members of staff below Director / civil service Grade 5 level, or direct contact details of staff, as to do so would breach the Data Protection principles, and so this information has not been provided.

This exemption is absolute and is not subject to the public interest test.

Annex B

Answers to the specific questions in your FOI request

(Q1) Was this also the case [commutation factors being expected to rise] between 1982 and 1998?

No this was not the case. Consistent with the Pension Ombudsman's determination, it was the failure to update between 1998 and 2006 that was the issue. We uncovered no evidence to suggest that commutation factors should have risen between 1982 and 1998.

It is also important to point out that although life expectancy is an element of the commutation factor calculation, there are other inputs which have an impact on the calculation. Reviews were carried out by GAD in 1982, 1986 and 1994. The reviews did not provide evidence that a change in factors was required. The Pension Ombudsman's determination notes that

"GAD explained that when the current commutation factors were last reviewed in 1994 improved mortality rates were used which increased the factors but the interest rates used to discount future payments were increased which acted to reduce the factors".

Therefore, even though life expectancy increases were seen during this period, changes to other inputs meant this did not lead to commutation factor increases. We uncovered no evidence to suggest the commutation factors should have risen between 1982 and 1998.

(Q2) Can you please provide all information that you have to support this expectation of an increase in commutation factors and when exactly do you consider the "late 1990s and 2000s" to cover?

The evidence we reviewed is correspondence between GAD and various public bodies (the Office of the Deputy Prime Minister and the Home Office) covering the period from late 2002 until 2007. Given that we were not assessing GAD's 1998 review, we did not obtain evidence in advance of this point. Key items of correspondence have been considered in Part two of our report.

The "late 1990s and 2000s" for the purposes of our report covers the period subsequent to the GAD review in 1998. There is no implied suggestion that we would expect the factors to have been increased before 1998.

Additionally, this statement does not mean that there was no increased life expectancy before this period rather that this is the time period of relevance. We did not review pre-1998 correspondence as, for reasons noted above, life expectancy increases pre-1998 had already been appropriately reflected by GAD in the 1998 review.

Our scope did not include a detailed assessment of GAD data to evaluate when a review should specifically have taken place. We did not, for example, obtain data that GAD held at various points and analyse whether this suggested an increase in commutation was required.

(Q3) What information do you have to show that GAD was aware of these increases in life expectancy?

Again, most of this is through the correspondence noted above. We did not audit the data held by GAD or perform any actuarial calculations to identify any increases in commutation factors.

The first mention of commutation factors **potentially** being out of date that we could evidence was in November 2002. As per our report:

"2.6 In November 2002, the Office of the Deputy Prime Minister (then responsible for the Firefighters' Scheme) enquired about the value of benefits being provided by the scheme. GAD's response noted that the life expectancy of firefighters in retirement, used to calculate the commutation factors, had

been set at the same level for many years. GAD also noted that other public sector schemes were reflecting increased longevity in their assumptions and that, in the absence of firefighter-specific data, the public sector scheme assumptions would probably be used for the Firefighters' Scheme. This suggests that GAD had reasonable knowledge that the commutation factors did not reflect those in use across other public sector schemes".

Given that the retrospective remedy went back to 2001, we would be content that this was sufficient to rectify the issue given the evidence we reviewed (i.e. we did not find any evidence that the 2001 calculation was unreasonable and/or that factors should have been reviewed earlier than this).

Annex C

Statement of Policy

Our policy is to respond to requests made under the Freedom of Information Act as helpfully and promptly as possible, having regard to the principles set out in the Act. I therefore hope you are happy with the way we have handled your request. If you are not, then you should take the following steps.

In the first instance, write to the National Audit Office Freedom of Information (FOI) Team at FOI@nao.gsi.gov.uk or by post to:

FOI Team, Green 2, National Audit Office, 157-197 Buckingham Palace Road, London, SW1W 9SP

The Head of FOI will arrange a review, which will be conducted by a senior member of staff who was not involved in decisions relating to your original request. Once the review has been completed we will write informing you of the outcome.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF