National Audit Office

REPORT

Pensions transferred to AEA Technology when it was privatised

Cross-government

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What this report is about

1 The UK Atomic Energy Authority (UKAEA) is the government body responsible for research into nuclear fusion and related technologies. It was formed in 1954 to develop the UK's nuclear research programme. UKAEA offers a defined benefit pension scheme, which provides a guaranteed income to members in retirement based on how many years they have worked and the salary they have earned.

2 AEA Technology (AEAT) was formed in 1989 as the commercial arm of UKAEA, and later privatised in 1996. Employees who were transferred to AEAT joined the company's new pension scheme and had several options for what to do with the pension benefits they had already accrued in UKAEA. This included a special transfer offer to move their accrued pension to a closed section of the AEAT scheme, which would have equivalent benefits. This option was taken by nearly 90% of eligible members.

3 In 2012, AEAT went into administration and the pension scheme subsequently entered the Pension Protection Fund (PPF). This fund is a statutory compensation scheme designed to protect members of a defined benefit pension scheme where the sponsoring employer has become insolvent. However, the compensation it pays is typically lower than the original pension benefits. Many pension scheme members now have lower pension benefits than they would have had if they had kept their accrued benefits in UKAEA's public sector scheme.

4 Since then, scheme members have raised concerns with various parts of government – including departments, regulators and ombudsman services – about information provided to employees in 1996 that informed their decision to transfer their pensions, and about the impact of the company's administration in 2012. There have also been two parliamentary debates on the subject, in 2015 and 2016, where members of Parliament raised concerns on behalf of the pension scheme members.

5 In response to interest from members of Parliament, we have prepared this factual briefing. The report is primarily based on publicly available information and is also informed by documentation provided to us by scheme members and public bodies. It sets out the facts around:

- what the privatisation of AEAT in 1996 meant for its pension scheme, including the options and information available to scheme members;
- the subsequent changes to the AEAT pension scheme following the company going into administration in 2012 and the impact this had on scheme members; and
- the actions taken by scheme members to make complaints to, and seek redress from, government, and the responses they have received.

6 The report does not seek to examine and report on value for money, nor does it seek to examine the merits of actuarial decisions. The report also does not examine the adequacy of AEAT's privatisation or pension settlement.

Summary

Key findings

Transfer of pension benefits on privatisation in 1996

7 **When AEAT was privatised in 1996, transferred employees joined the company's new pension scheme, which had similar benefits to the previous scheme.** AEAT's privatisation meant that scheme members were no longer eligible to pay into UKAEA's public sector defined benefit pension scheme, which was guaranteed by government. The Atomic Energy Authority Act 1995 facilitated the privatisation and outlined key conditions, such as pension arrangements. This required that the pension benefits within the new AEAT pension scheme must be "no less favourable" than the previous UKAEA scheme for transferred staff (paragraphs 1.3 and 1.5).

8 **The Government Actuary's Department (GAD) provided advice to the then Department of Trade and Industry (DTI) on the terms and overall value of the AEAT scheme at the time of privatisation.** In September 1996, at the request of DTI, GAD conducted a comparative assessment of the UKAEA and AEAT pension schemes' benefits. It concluded that the new pension scheme was no less favourable for employees than their previous UKAEA scheme at the time of privatisation (paragraph 1.6).

9 **GAD and AEAT provided information to pension scheme members on their options for the pension benefits they had already accrued.** In November 1996, AEAT and GAD provided information to scheme members outlining their pension options, which were to:

- leave their preserved pension benefits in the UKAEA pension scheme;
- transfer their benefits into a personal pension; or
- take a special transfer offer to transfer the benefits into the new AEAT pension scheme. This offer was only available for one month until December 1996 (paragraphs 1.7 and 1.8).

10 The information provided by GAD stated that the pension benefits promise was unlikely to ever be broken by either scheme. Information provided to members by AEAT suggested that, as a private company, it would be subject to the fluctuations of the market it occupied, and subject to specific laws regarding pensions management. GAD also provided a note to members to outline the main factors to take into consideration in deciding whether to transfer their accrued benefits. This said it was unlikely that the benefit promise made by either scheme would ever be broken. It also said that it is still more unlikely that both would be broken, which could be viewed as a reason to preserve the benefits in the old scheme where other factors are finely balanced. None of the information indicated that members' transferred benefits may be less secure due to the scheme not being guaranteed by government. Some other privatisations in the 1980s and 1990s did have a government guarantee for their pension schemes. Scheme members later learned from freedom of information requests that GAD had made changes to the note at the request of AEAT and UKAEA, including addressing concerns raised by AEAT that the way it was written would discourage members from transferring their pensions. These changes included amending the language used to describe the relative benefits and risks of the different pension options (paragraphs 1.6 and 1.8 to 1.12).

11 Nearly 90% of members transferred their pension benefits to the new scheme, which some attribute in part to the information from GAD. Almost 90% of members took the special transfer option and transferred their accrued benefits into the new AEAT pension scheme. Some scheme members have stated that their decisions were heavily influenced by the information note that GAD provided, which they regarded as a key piece of advice at the time (paragraph 1.13).

Pension scheme changes in 2012

12 After AEAT went into administration in 2012, the pension scheme was assessed for the PPF, which it subsequently transferred to in 2016. In the first few years after privatisation, AEAT's profits increased. However, in 2000-01 the company experienced a loss of £8.6 million. Around this time, AEAT began to sell the nuclear engineering and consulting areas of the business. By 2008, the pension scheme was significantly underfunded, with a shortfall of around £150 million between its assets and liabilities. The scheme's trustees agreed a recovery plan with AEAT to pay additional contributions to the scheme, which the Pensions Regulator reviewed and provided feedback on. However, by July 2012 the deficit had grown to around £165 million. In February 2012, the trustees and AEAT concluded that insolvency was inevitable. They decided that a pre-pack administration (whereby an insolvent company negotiates the sale of its assets before appointing an administrator) would be better than an unplanned insolvency for creditors, including scheme members. After AEAT's business and assets were sold in November 2012, the scheme entered an assessment period for the PPF, and transferred to it in July 2016 (paragraphs 2.2 to 2.5).

13 **Compensation provided by the PPF is lower than pension scheme members' benefits, particularly for the benefits transferred in 1996.** The PPF was set up to pay compensation to members of defined benefit pension schemes where the sponsoring employer has become insolvent and the scheme assets are not enough to pay at least PPF compensation levels. PPF compensation initially provides 100% of pension benefits for members who had already reached the scheme's normal pension age at the date of insolvency, or 90% for those who had not. However, the compensation is only increased to reflect inflation based on benefits accrued from April 1997, up to a maximum of 2.5% a year. For members who transferred their benefits at the time of AEAT's privatisation in 1996, their compensation reduces in real terms each year as it does not include rises for inflation (paragraphs 2.5 to 2.6).

Complaints made to government

14 **Scheme members have raised a series of complaints with government since 2012, particularly that it did not tell members the new scheme had no government guarantee.** The complaints cover a range of issues and involve several government organisations, including GAD, DTI (and its successor departments) and the Department for Work & Pensions (DWP). In these complaints, scheme members argued in particular:

- that the legal duty to ensure the benefits of the AEAT scheme were no less favourable than the previous pension should include an equivalent guarantee to the UKAEA scheme; and
- that the information provided by GAD in 1996 did not say that the new AEAT scheme was not guaranteed by government, which was therefore misleading as it failed to highlight the risk of transferring accrued benefits to the scheme (paragraphs 3.2 to 3.4).

15 **The government has responded to the complaints, but scheme members have been dissatisfied with the responses.** DWP produced a factsheet on behalf of itself and other parts of government in July 2013, which summarised the main complaints government had received and set out responses to each. The government's responses have explained that the benefits promise did not include any government guarantee, and that the information from GAD was not intended as advice and did not seek to compare levels of risk across different options. Following scheme members' dissatisfaction with these responses, the government advised that they should refer their complaints to ombudsman services for independent review (paragraphs 3.2 to 3.7).

16 **Relevant ombudsman services have said they cannot review key aspects of scheme members' complaints because they fall outside their jurisdictions.** Ombudsman services are independent statutory organisations set up to make final decisions on complaints that cannot be resolved, such as complaints about a pension scheme by its members. Where they make a decision in favour of the complainant, they can typically award or recommend compensation or other redress. Some aspects of scheme members' complaints have been reviewed; for example, the Pensions Ombudsman observed that the Atomic Energy Authority Act 1995 did not provide statutory protection for the AEAT pension scheme, and that scheme trustees acted reasonably when managing the impact of AEAT's insolvency on the scheme in 2012. However, complaints regarding the information provided to help members make their decisions have not been reviewed. Both the Pensions Ombudsman and the Parliamentary and Health Service Ombudsman have said that they are unable to investigate the complaints about GAD, and that the information it provided in 1996 is outside their statutory jurisdictions (paragraphs 3.8 to 3.11).