

The Mis-selling of AEA Technology Pensions

Information for the National Audit Office

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Summary

AEA Technology plc (AEAT) pensioners are seeing the value of our pensions eroded year by year because of limited indexation of compensation from the PPF (Pension Protection Fund). PPF compensation for pension benefits earned before 1997 is not indexed for inflation at all, even though we paid for RPI indexation through our pension contributions. As a result, PPF payments are already 23% lower than the AEAT pension scheme would have paid. This is rapidly getting worse as inflation rises.

Compensation for those retiring after 2012 (when the scheme entered the PPF assessment period) is cut by a further 10%. We will generally receive only around 60 to 70% of the pensions we earned, and for those who live longer the situation will be worse. A small number of people are also hit by a cap on higher pensions.

The commercial activities of the UK Atomic Energy Authority (UKAEA) were privatized as AEAT in September 1996. The Atomic Energy Authority Act 1995 placed a duty on the Secretary of State to satisfy himself that the AEAT scheme conferred benefits *"no less favourable"* than the UKAEA scheme. In the debate on the bill, Richard Page for the government told MPs *"I have made it absolutely clear that the Government have no intention whatever of selling employees short. Their terms and conditions and pension rights will be fully protected"*. If only that were true!

Employees were offered membership of the new AEAT Pension Scheme (Closed Section). This was designed to offer benefits *"as similar as possible to those in your UKAEA scheme"*. Employees were never told that, unlike the UKAEA scheme, the AEAT scheme would not benefit from a Treasury-backed Crown guarantee and was therefore more risky. Nearly 90% of transferees decided to transfer their past pension service, earned in the UKAEA pension schemes, into the AEAT scheme.

We received various documents reassuring us about our pensions. Probably the most important and influential one was the November 1996 Note prepared by the Government Actuary's Department (GAD), no less! The GAD Note contained advice on what to do with benefits for past service earned in the UKAEA pension scheme. It appeared to be, and should have been, unbiased professional advice from an authoritative body which we could reasonably rely on in making our decisions. We received the Note after privatisation and were given just 40 days to decide.

The GAD Note said that it *"outlines the main factors to take into consideration in deciding whether or not to transfer accrued UKAEA scheme benefits"*. But the truth is that very important information about the risks of transferring those benefits into the AEAT Scheme was omitted from the Note, including:

1. The UKAEA scheme was backed by the Treasury but AEAT's did not have any such Crown guarantee
2. An AEAT pension was at greater risk than UKAEA pension, because it depended on the success of an unproven company
3. If AEAT or its scheme failed we could be left with greatly reduced pensions (all the more so because there was no PPF at that time)
4. GAD had done no risk assessment of the AEAT scheme to justify their advice that "it is unlikely that the benefit promise made by either scheme would ever be broken".
5. The *"no less favourable"* pension required by the AEA Act 1995 did not include pension security.

It is obvious that for most people, these would have been *"main factors"* in their decision making, had they been disclosed.

GAD knew all about these risks – a 1994 GAD document *"Passport System for Pensions"* said *"it is also relevant to consider when moving from a public service scheme that the benefits under those schemes are absolutely guaranteed by the government"*.

AEAT entered pre-pack administration in November 2012 and its pension scheme finally went into the PPF in July 2016. In the Westminster Hall debate on AEAT pensions on 26 Oct'16, the Pensions Minister Richard

Harrington attempted to excuse the lack of risk warnings in the GAD Note, saying “*the document was already 8 pages long and could not cover everything*”! This excuse seems particularly ridiculous when you consider that GAD *did* manage to find room in the document for a clear warning on the risk of transferring benefits into a *personal* pension scheme.

The Pensions Minister also told the House that the Note “*was not designed to be advice*”. Whether the Note was ‘advice’, ‘guidance’, ‘information’ or anything else, the fact is that the Government Actuary was responsible for its quality and accuracy. The Faculty and Institute of Actuaries Memorandum of Actuaries’ Professional Conduct at the time said that the actuary’s duty of care extends to “persons or organisations whom he can reasonably expect to rely on the advice or the information that he gives”.

If we were not supposed to rely on the Note, what was the point of giving it to us?

It is now also clear that this GAD Note was not the unbiased independent professional advice and information it appeared to be, and which that same actuaries’ Memorandum required it to be. In 1995 the Deputy Prime Minister told the trade unions representing UKAEA employees that GAD “*is fully independent in its professional advice and opinions, and the advice it gives is not influenced, or dictated to, by any arm of Government.*”. This was not true. A conflict of interest existed because GAD was also responsible for negotiating pension transfer terms with AEAT on behalf of the UKAEA and the Treasury. The Treasury and AEAT both wanted members to transfer their pensions, and so GAD had an interest in encouraging a decision to transfer. FoI requests have revealed that the GAD accepted requests from UKAEA to make the Note more favourable towards transferring.

We have complained to the Financial Ombudsman, the Pensions Ombudsman and the Parliamentary and Health Service Ombudsman. After lengthy deliberation, these bodies have all decided that they are prevented by law from investigating our unique complaints.

At around the same time in the UK, mortgage endowment mis-selling was coming to light. The thing that opened the door to payments of compensation was that the information given to purchasers to inform their decision did not point out the risk that the benefits of the scheme might be less than designed. Our case has obvious parallels to that.

We trust that the National Audit Office will support Parliament in holding government to account, something our MPs have been unable to achieve so far.

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1 Introduction

In 1996, after the privatisation of AEA Technology (AEAT), 90% of eligible members of the UKAEA Pension Schemes transferred their pensions into a new AEA Technology private pension scheme. These people had received assurances about the security of their pensions from government in parliament, in communications from the company, and in particular in an eight-page Note prepared by the Government Actuary's Department (GAD) which purported to outline *"the main factors to take into consideration in deciding whether or not to transfer accrued UKAEA Scheme benefits"*.

They were never told that if they transferred their pensions they would be giving up a Crown guarantee that their pensions would be paid.

The lack of the guarantee came to light in 2012 when, after a pre-pack administration deal, the AEAT pensioners ended up in the Pension Protection Fund. As a consequence, they have lost about one third of the total value of their lifetime pensions¹.

A primary purpose of the National Audit Office (NAO) is *"to support Parliament in holding government to account"*², something our MPs have been unable to achieve so far.

This document has been prepared by the AEA Technology Pension Campaign for the NAO, to provide information on the circumstances surrounding our pension transfers, and to describe our unsuccessful attempts to get an ombudsman to investigate our case.

The story of the AEAT Pension Scheme is outlined in a House of Commons Library Brief³ and in a Dossier⁴ which recounts member's experiences

2 The GAD Note

2.1 Procurement by UKAEA and Delivery to pension scheme members

On 13 November 1996, (after the company had been privatised) UKAEA pension scheme members who had been transferred to AEA Technology were sent details of their benefits accrued in the UKAEA schemes and invited to make a decision about them before 23 December 1996.

A Note⁵ from the Government Actuary's Department (GAD) on the Options Available was attached. This had been prepared by GAD at the request of UKAEA to explain the options that were available and to outline the main factors to take into consideration in deciding whether or not to transfer the UKAEA benefits to the AEAT scheme⁶.

¹ The UKAEA pensions we earned were (and still would be) linked to RPI, but PPF provides no inflation protection for the pensions we earned before 1997, and limited protection after that.

² <https://www.nao.org.uk/about-us/>

³ "AEA Technology pensions", House of Commons Library Briefing Paper CBP-07740, Djuna Thurley, updated 24 April 2019

⁴ AEA Technology pensions dossier – second edition – Editor Dr Tony Wickett, Jan 2018

⁵ "Transfers from the UKAEA Superannuation Schemes to the AEA Technology Pension Scheme, Note by the Government Actuary's Department on the Options Available in respect of Accrued UKAEA Benefits", Nov 1996.

⁶ (or to a Personal Pension Plan; that option is not considered further in this brief)

The Note was attached to the transfer form bearing the UKAEA logo and the wording “UKAEA Pension Scheme”.

2.2 What the GAD Note said

2.2.1 Introduction

We consider that the GAD Note was incomplete and misleading. In this section we comment on what the Note said. In the following section, we address the even more important matter of what the Note did NOT tell us.

2.2.2 Key paragraphs of the GAD Note

In the subsequent sections, statements from the GAD Note are reproduced in *italics*, with their paragraph numbers⁷.

1.1.1 ‘....The note also outlines the main factors to take into consideration in deciding whether or not to transfer accrued UKAEA Scheme benefits.’

If only this had been true! The fact is that the Note omitted crucial information about the security of benefit payments which we certainly would have taken into consideration, had it been revealed at the time.

1.1.3 ‘The note is not intended to suggest that any one course of action was better than any other. This would depend upon individual circumstances, and if you are unsure of the most suitable course of action you should seek Independent Financial Advice which would take into account your particular circumstances’

In response to complaints, the government side has often quoted this paragraph (usually omitting ‘which would take into account your particular circumstances’) in an unreasonable attempt to shift the responsibility for identifying the principal risks of transferring to the AEAT Scheme, from the Government Actuary to the pension scheme member or his IFA. In practice those who consulted an IFA found, not surprisingly, that the IFA deferred to the superior knowledge of the Government Actuary.

Section 2 discussed each option: transfer to the AEAT scheme was covered in 2.2:

2.2.4 ‘The overall effect of taking a transfer value is that the whole of your benefits (including that part based on UKAEA Scheme service) will be provided by the AEAT scheme. The benefit structure of the closed section of the AEAT Scheme is very similar to that of the UKAEA Schemes, so that your transferred benefits will be identical (or very close) to those you would have received if you had been able to continue to contribute to the UKAEA Scheme for future service. If you take advantage of the special transfer terms and also remain in the closed section of the AEAT Scheme, your total benefits will be identical (or very close) to those you would have received if you had been able to continue to contribute to the UKAEA Scheme for future service.’

This confirms the ‘mirror-image’ nature of the AEAT Scheme (Closed section). The phrase “*total benefits will be identical (or very close)*” is very influential.

The ‘*Factors to consider in making the decision*’ were then stated, starting with the advantages of ‘*opting for the special transfer terms*’:

3.1.1 ‘Benefits based on transferred service to the AEAT scheme are likely to be higher than preserved UKAEA Scheme benefits’ because ‘pay levels increase faster than price levels’ and pay levels ‘may increase further as the result of performance and promotion awards’.

⁷ We have underlined some key phrases

3.1.2 *'In the case of early retirement or redundancy, the UKAEA pension will not normally be available until normal retirement age, whereas rights transferred to the AEAT Scheme would be likely to be available immediately'*

Para 3.2.1 says that (on the other hand) leaving the benefits in the UKAEA could be better if pay increases are lower than cost of living indexes, or if you expect to leave or retire soon from the AEAT scheme.

The most relevant section in the GAD document for this brief is:

3.2.3 'The effect of preserving your UKAEA benefits is that your total benefits will be payable from two independent sources. Whilst it is unlikely that the benefit promise made by either the UKAEA scheme or the AEAT scheme would ever be broken, it is still more unlikely that both promises would be broken, and this could be viewed as a reason to opt for preservation. However, this consideration should not normally outweigh those in relation to salary and inflation, although it might be taken into consideration where the other factors were very finely balanced'.

This tells the reader not to worry about the possibility that the benefits promise would ever be broken. It says that (a) both schemes are reliable and that (b) reliability is not an important consideration in making the decision whether to transfer or not. The fact that the GAD Note makes no distinction between the security of the two schemes is very important. No express warning is given that the pension could be at risk if AEAT became insolvent.

In response to complaints, the government side contends that the GAD Note was not 'advice'. However, the statement *'this consideration should not normally outweigh those in relation to salary and inflation'* is obviously worded as advice.

The government has defended GAD's advice that "it is unlikely that the benefit promise made by either the UKAEA Scheme or the AEAT Scheme would ever be broken" by saying:

"At the time, AEA Technology was a profitable organisation and therefore the assessment was not unreasonable."

This is ridiculous because pensions need to be paid for decades. And in any case, the government side knew that the profitability of AEAT was doubtful. The NAO report⁸ into the sale of AEA Technology said:

"In December 1995, however, a draft Long Form Report and a subsequent analysis by Schroders indicated very serious shortcomings in the financial management information available as at December 1995, with a consequent degree of uncertainty as to the quality of the results and forecasts....."

"Financial information for 1993-94 was very limited. [It is] not possible to explain the reasons for substantial improvements in profitability to March 1996"

The Schroder report is an excellent example of the kind of information inaccessible to an IFA, but which UKAEA and/or GAD, being intimately involved with DTI in the privatisation, could and should have taken into account in a risk analysis, had they bothered to do one.

3.3 'What about the personal pension option'

This section of the Note points out that of transferring UKAEA accrued benefits into a personal pension

'is likely to attract those who are willing to risk a smaller pension than the UKAEA Scheme or AEAT Scheme pensions in exchange for the chance that it may be larger'.

⁸ Sale of AEA Technology, National Audit Office, HC 618 Session 1997-98, March 1998. (pp20-21)

This is the only place in the Note where ‘risk’ is mentioned; it’s about the *personal* pension option. In response to complaints, the government side has said that ‘the Note specifically highlighted the risk that the [AEAT] scheme might fail’. This is simply not true!

2.3 What the GAD Note did NOT say

The GAD Note said that it “*outlines the main factors to take into consideration in deciding whether or not to transfer accrued UKAEA scheme benefits*”. But the truth is that very important information about the risks of transferring those benefits into the AEAT Scheme was omitted from the Note, including:

1. The UKAEA scheme was backed by the Treasury⁹ but AEAT's did not have any such Crown guarantee
2. An AEAT pension was at greater risk than UKAEA pension, because it depended on the long-term success of a newly formed, unproven company
3. If AEAT or its scheme failed we could be left with greatly reduced pensions (all the more so because there was no PPF at that time)
4. GAD had done no risk assessment of the AEAT scheme to justify their advice that “it is unlikely that the benefit promise made by either scheme would ever be broken”.
5. The “no less favourable” pension required by the AEA Act 1995 did not include pension security.

It is obvious that for most people, these would have been “main factors” in their decision making, had they been disclosed in the GAD Note.

GAD knew all about these risks – a GAD document “Passport System for Pensions” published in 1994¹⁰: states “It is also relevant to consider when moving from public service scheme that the benefits under those schemes are absolutely guaranteed by the government”.

In the light of what we had been told, pension scheme members concluded that the AEAT pension scheme was every bit as secure as the UKAEA scheme. The GAD Note treated them equally. It advised members that other considerations should normally outweigh the unlikely possibility that “*the benefits promise would ever be broken*”

Such positive wording could only be used correctly if there was a guarantee for the AEAT Scheme, equivalent to the Crown guarantee of the UKAEA Scheme. We were not told that if we transferred our pensions, we would be giving up a Crown guarantee that our pensions would be paid.

If there was not such a guarantee, then we were grossly misled.

2.4 How GAD slanted the Note in favour of a transfer to the AEAT Scheme

Documents¹¹ released by GAD in response to a Freedom of Information (Fol) request clearly show that UKAEA, after consulting AEAT, successfully persuaded the Government Actuary to alter the tone and content of the Note, playing down the argument for preserving benefits in the UKAEA Scheme and making the Note more encouraging about transferring benefits into the AEAT Scheme.

1. GAD sent a copy of the draft to the UKAEA, who passed it on to AEAT for their comment
2. AEAT wrote to UKAEA, suggesting changes that would put transferring pensions to AEAT before retaining pensions in UKAEA etc

⁹ UKAEA PNISS Booklet, Section 10.12

¹⁰ Market Testing: Passport System for Pensions – Note by GAD, September 1994; paragraph 2.13

¹¹ Information enclosed with letter 14Nov'14 GAD to Derek Whitmell.

3. UKAEA passed this back to GAD saying that they had no objection and they expected staff to move their pensions
4. GAD and UKAEA agreed to final wording.

The stated intention of the GAD Note was to outline “the main factors to take into consideration in deciding whether or not to transfer accrued UKAEA Scheme benefits”. Unfortunately, GAD were unable to produce the original specification for the Note and so there is no way of knowing what the intention actually was.

As noted in the preceding section, several main factors were omitted from the GAD Note. And UKAEA did not tell scheme members that they had tasked GAD to produce the note nor that they had influenced the content to make it more favourable towards transferring. Members had no idea that the GAD Note had been drafted in collaboration with UKAEA and AEAT.

The following are some of the ways in which the Note was slanted during drafting to make it more favourable towards the option to transfer:

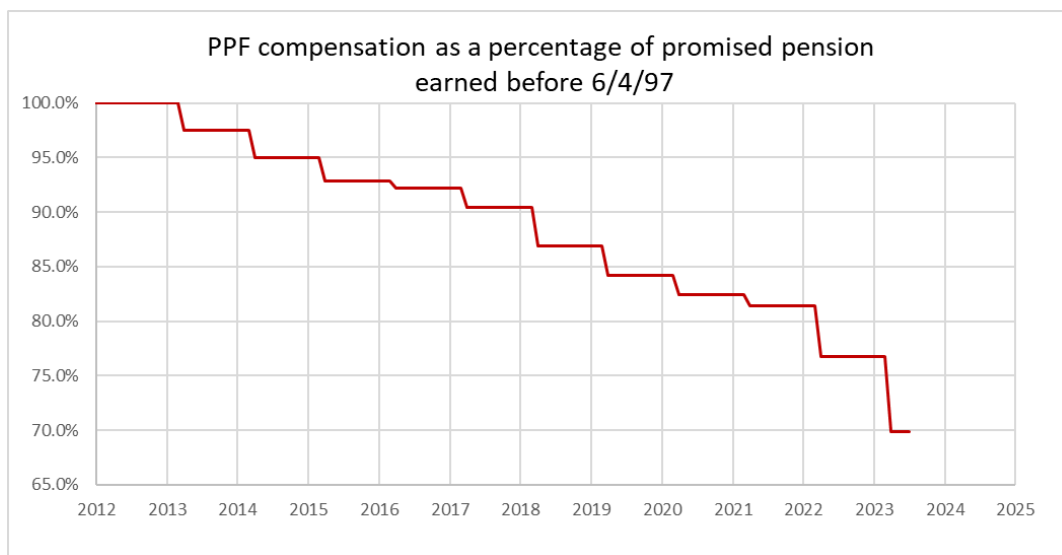
1. Section 3 of the GAD Note was titled “*Factors to consider in making the decision*”. In the first draft this section started with a paragraph including:
“some people rest easier with the feeling that their eggs are not all in one basket. Preserving the past UKAEA Scheme benefits whilst joining the AEATPS for the future has the effect of keeping the eggs in different baskets”.
 If this sentence had been retained it would certainly have given the reader pause for thought. But it was deleted at UKAEA’s request.
2. In commenting on the GAD’s first draft, UKAEA requested that the tone of the note be “modified” to make it more favourable to transferring:
“We believe the general tone of this note is likely to discourage people from transferring to the AEAT scheme: while recognising the note must be as neutral as possible we do not think this is the case and have suggested a few cases where the tone could be modified. In Section 3, we would like to see advantages of transferring put before those for preserving.”
 GAD wrote “*surprise, surprise*” in the margin, but nevertheless complied with the request.
3. Initially GAD’s draft said that the ‘two separate pensions’ argument for preserving benefits in the UKAEA scheme “*might clinch the decision in borderline cases*”. This was changed into positive advice to transfer: “*this should not normally outweigh considerations of salary and inflation*”.
4. The GAD’s original advice “*decisions would best be taken after receiving independent financial advice that takes into account your particular circumstances*” became qualified: “*if you are unsure of the most suitable course of action you should seek independent financial advice that takes into account your particular circumstances*”. Given the Note’s strong statements in favour of transfer, and the apparently independent nature of the GAD, not many readers would have been unsure of the most suitable course of action!
5. We have recently been informed that the government side had no intention of protecting the benefits of the AEAT Scheme after the first day of the transfer. This would clearly have been a very ‘important factor to take into consideration’. Yet UKAEA, who were responsible for implementing the government’s intentions, had every opportunity to ask GAD to mention this fact in the GAD Note, but they did not do so.

These changes add up to a concerted effort to slant the Note to encourage people to transfer their benefits into the AEAT Scheme.

2.5 The Consequence of the Mis-information

The 1997 Annual Report of the AEAT Pension Scheme stated¹² that in September 1996 it had 3317 members (2701 in the Closed section); nearly 90% had opted to transfer their past service from the UKAEA. Payments of £147.5M had been received from the Treasury in respect of the transfer value for members' past service in the UKAEA schemes.

There are currently about 1245 former members of the scheme. They are receiving compensation from the PPF, but the indexation of the compensation is capped at 2.5% CPI, and is zero for pensions earned before 1997. UKAEA pensions were (and continue to be) indexed at RPI uncapped.



The graph shows how annual PPF compensation has already fallen well below the pensions we earned. In 2023 it is expected to fall below 70%. We have estimated that members can expect, on average, to lose about one third of the lifetime value of their pensions. It will be much worse if inflation continues at its current high level.

2.6 GAD's Failure to Comply with its Obligations

2.6.1 GAD Statements of Practice 1994

A document published by GAD in 1994¹³ states

"It is also relevant to consider when moving from a public service scheme that the benefits under those schemes are absolutely guaranteed by the government".

It was NOT considered in the GAD Note we were given in 1996.

2.6.2 Lack of a Risk Assessment

GAD have no justification on record for the statement in the GAD note that "it is unlikely that the benefit promise made by either the UKAEA scheme or the AEAT scheme would ever be broken".¹⁴

In fact, not only did GAD fail to carry out a proper risk assessment of the various options on behalf of UKAEA/DTI - something that is a principal duty of an Actuary - but neither UKAEA or GAD gave any warning that

¹² AEA Technology Pension Scheme Annual Report 1997

¹³ Market Testing: Passport System for Pensions – Note by GAD, September 1994; paragraph 2.13

¹⁴ Letter from George Russell, GAD, to Derek Whitmell 14/11/14 ref WHI2807140

a risk assessment had not been carried out. Both failures are contrary to Codes of Actuarial Quality and duty of care. Risk assessment is a primary duty of an actuary. Failure to mention risks associated with a financial product is a breach of the Actuary's code of conduct. As the responsible organizations that had originally commissioned and distributed the document, UKAEA & DTI should have checked that these requirements had been carried out as they are such a significant factor in investment decisions.

2.6.3 Actuarial Code of Practice (1996)

The standards expected from an Actuary can be found in the prevailing Memorandum of Actuaries' Professional Conduct¹⁵, Point 9 states:-

"Although advice is primarily directed to the client a member needs to bear in mind that his advice may be made available to third parties who can reasonably be expected to rely on it. In particular an actuary signing a statutory certificate, a report required by a regulatory body or a report prepared in fulfilment of a statutory obligation has additional responsibilities and obligations laid on him by the purposes of the certificate or the report."

In Point 10,

a member should bear in mind that, as a matter of law, his duty of care can extend to persons or organisations whom he can reasonably expect to rely on the advice or the information that he gives.

Under the section on Independence (section 13):

For a member in a particular situation to describe the advice he offers as independent he must be free, and must be seen to be free, of any influence which might affect his advice or limit its scope.

The lack of independence of GAD is discussed below.

2.6.4 Subsequent GAD Statement of Practice

A GAD Statement of Practice issued in 1999¹⁶, discusses "broad comparability" of pension rights between Public and Private Schemes, as measured against Value, Contributions, Benefits, Membership, Security and Type of Scheme. Note that the measures did include Security. "Broad comparability" is a weaker protection than "no less favourable" required by the Atomic Energy Act 1995. The guidance is instructive.

As to **Value**, we were promised in 1996 that our benefits would be "no less favourable" than the UKAEA Pension Scheme.

In the section on **Security** it was recognized that the security of a private sector scheme "cannot be provided in the same form as that applying in the public sector". This was not made clear in the communications to us in 1996. It would have been a "main factor" in our decision to transfer accrued UKAEA benefits to the new AEAT Technology Pension Scheme (which was misleadingly described to us as having protection under the privatisation legislation).

In the section on **Certification**, it states that firstly the onus is on the current employer (the Government owned AEAT at that time) to ensure that the pension promises made by the prospective employer (privatised AEAT) are delivered for the staff concerned - implying that the Government has responsibility for making sure our pensions are not devalued. Secondly, that the certificate will be in a form which can be distributed to the

¹⁵ Memorandum on Professional Conduct Faculty and Institute of Actuaries MPC v5.1. (23.05.1996) - 23.5.96

¹⁶ Assessment of broad comparability of pension rights – Statement of Practice by the Government Actuary C D Daykin (May 1999).

employees and their representatives. The certificate¹⁷ in existence in September 1996 was NOT distributed to employees.

2.6.5 GAD's note on Pension Fund Security

A GAD document¹⁸ dated 2006 states that for Public Service Schemes (including UKAEA)

“Public service pension schemes are normally established under an Act of Parliament and are underwritten by the government. The benefits and contributions for each public service scheme are normally set out in regulations or rules approved by Parliament. This means that the benefits are guaranteed to be paid in full”. Whereas for Private Sector Schemes “many of the laws governing the way in which schemes operate are intended to provide security to members, although it must be recognised that the level of security offered by these rules is lower than that implied by a Crown guarantee.”

On the wind-up of the AEA Technology Pension Scheme, the PPF refused to recognise any protected status of the “Closed Section” for members who had transferred from the Public Sector UKAEA Scheme. However this would seem to be contrary to the advice given in the 2006 GAD document, where it states *“The private sector scheme must provide for greater than statutory protection of ex-public service employee benefits in the event of scheme wind up...”*

All these principles must have been known in 1996, when GAD prepared the initial note for UKAEA. If it was thought necessary later to provide that very clear guidance on the risks associated with a private sector pension scheme for later transfers, as set out in the 1999 and 2006 GAD notes, then it is implicit that the information given for the AEAT transfer in 1996 was inadequate and the limited scope of the information meant that employees were unable to reasonably rely on it when making such a major decision. This might be regarded as a breach of professional conduct and a failure of a fiduciary duty of care.

2.6.6 GAD's AEAT Pension Scheme Certificate

The pension scheme certificate¹⁷ issued by GAD to the Secretary of State in 1996 was not sent to AEAT employees. We have now seen the certificate, which contains the caveat:

“It assumes that the commitments and undertakings made by AEA Technology plc will be fulfilled”.

GAD has told us that 'commitments' does not refer to any specific document, but that 'undertakings' may refer to a letter¹⁹ from AEAT to the Secretary of State, in which AEAT undertakes to:

“establish a pension scheme in the form agreed by Bacon & Woodrow, the Government Actuary's Department and Lovell White Durrant.”

Neither of these documents mention any provision for scheme security; there is certainly nothing equivalent to the UKAEA scheme's provision for a Crown guarantee. By withholding the documents from pension scheme members at the time, the government side avoided alerting them to the lack of such provisions.

¹⁷ C D Daykin “Privatisation of AEA Technology plc Pension Arrangements”, 4 Sept 1996

¹⁸ Security of pension benefits differences between public service and private sector schemes (GAD October 2006)

¹⁹ Letter from AEAT Human Resources (redacted) to the Secretary of State, “Privatisation of AEA Technology: New Pension Scheme and Premature Retirement Agreement”, 5 Sept 1996

2.6.7 Lack of Independence of GAD

It is clear that GAD regarded UKAEA as the client, making scheme members persons who an Actuary ‘*can reasonably expect to rely on the advice or the information that he gives*’ (paragraph 10 of the Memorandum) and for whom his legal duty of care can extend. We could reasonably be expected to rely on that information because we believed we could trust the integrity, independence and professionalism of the GAD.

The independence of the GAD advice was questioned in 1995 by Malcolm Andrew (Secretary of the AEA Technology Central Trade Union Coordinating Committee) who was supported by Robert Jackson (MP for Wantage at the time). However, a DTI reply²⁰ from Richard Page MP stated:

“GAD..... is fully independent in its professional advice and opinions, and the advice it gives is not influenced, or dictated to, by any arm of Government.”

The same wording appeared in a letter to Malcolm Andrew signed by Michael Heseltine MP (Deputy Prime Minister)²¹.

However, GAD played three roles in the privatisation process, working for three parties who all wished to encourage scheme members to transfer.

- Acted as auditor of the pension fund provisions and reported back to the Secretary of State, and made AEAT sign that they would set up the fund accordingly. Here they were acting for the DTI. DTI and AEAT both wanted a large proportion of people to transfer their pensions, because this would signal a successful privatisation.
- Negotiated the capital amount to be transferred to the scheme against the AEAT actuary, hence working for the Treasury. The Treasury were keen for scheme members to transfer their pensions as this would reduce the financial risk to the Treasury.
- Wrote the 1996 Note on Options, given to scheme members. Unbeknown to those members, GAD was acting for UKAEA, whose proposed modifications (accepted by GAD) clearly indicate that UKAEA wished to encourage members to transfer their pension benefits.

This created a clear conflict between the interests of GAD’s customers and the interests of pension scheme members.

2.6.8 GAD’s poor track record

A number of authoritative independent reports strongly criticised the work of the GAD in the 1990s in connection with the Equitable Life affair:

Penrose report²² Lord Penrose described the government actuaries as an ‘*introspective and exclusive*’ professional group. He criticised the GAD scrutiny of Equitable life accounts by Mr Daykin’s department as:

“complacent, lacking in challenge, and hesitant in criticism”

Parliamentary Ombudsman’s report “A Decade of Regulatory Failure”²³. Ann Abrahams, the Parliamentary Ombudsman, found that the GAD was partly responsible for the demise of Equitable Life. She said:

²⁰ Letter from Richard Page MP to Robert Jackson MP, 13 November 1995.

²¹ Letter from Michael Heseltine MP to Malcolm Andrew, Ref MH/95/O/1581, 30 November 1995.

²² Report on the Equitable life Inquiry by the Rt Hon Lord Penrose, March 2004

²³ Equitable Life: a decade of regulatory failure, HC-815-I, 16 July 2008

“there was a comprehensive failure by the prudential regulators and the GAD to identify issues of potential concern within the returns when they first arose – and in some cases ever.”

The Ombudsman found that, where the GAD knew that the society’s regulatory returns were giving a misleading impression to authoritative independent observers, GAD’s failure to act on this information

“fell short of ‘acceptable standards of administration.’”

High Court Judgement, Equitable Members Action Group v HMG, 2009. The High Court found GAD guilty on four counts of maladministration in the Equitable Life affair.

National Audit Office report on Police and Firefighters’ Pension scheme²⁴ The National Audit Office investigated Police and Firefighters’ Pension scheme commutation factors in the period 2001-06. The Pensions Ombudsman had found maladministration by the GAD which resulted in a liability of £711 million to the Government, and a delay of 15 years before some pensioners received their full pension entitlement.

²⁴ Investigation into Police and Firefighters’ Pension Scheme commutation factors HC 986 SESSION 2016-17 1 FEBRUARY 2017

3 Other Assurances of Pension Security

3.1 Statements about Pensions leading up to privatisation

3.1.1 By Government Ministers

“I have made it absolutely clear that the Government have no intention whatever of selling employees short. Their terms and conditions and pension rights will be fully protected.”

Richard Page MP,
Atomic Energy Authority Bill 3rd Reading, House of Commons Hansard, 2/5/1995 column 210

It was common practice in privatisations, both before and after AEA Technology's, for pension schemes large and small to retain their Crown guarantees²⁵. The statements made at the time by government ministers seemed to confirm that our pensions would be protected in the same way.

“When privatisation takes place the bill will place a statutory duty on the seller... to be satisfied that employees can join a pension scheme that is no less favourable than the authority's schemes.”

Tim Eggar MP (Minister for Energy and Industry)
HOC Hansard 14/3/95 cols 711-712, Atomic Energy Authority Bill Second Reading

“On the question whether the new scheme that is provided by the purchaser is at least equivalent to the authority's schemes, that will be audited by the Government Actuary. In other words we shall have the advice of the Government Actuary as to whether that undertaking is made.”

Tim Eggar MP (Minister for Energy and Industry)
HOC Hansard 14/3/95 cols 711-712, Atomic Energy Authority Bill Second Reading

“Employees are AEA Technology's greatest asset... We have no intention of selling employees short, and I am sure that the house will welcome the statutory reassurance that we are proposing”.

Tim Eggar MP (Minister for Energy and Industry)
HOC Hansard 14/3/95 cols 711-712, Atomic Energy Authority Bill Second Reading

“It is vital to make it as clear as possible that adequate protections exist for employees and that their valuable pension rights are not at risk through the whim of the system.”

Richard Page MP
HOC Committee Stage 4/4/95 HOC Hansard Col 109

²⁵ See for example NAO report “HM Treasury, Evaluating the government balance sheet: pensions”, HC 238, Session 2016-17, 30 June 2016. Figure 18 lists four examples (totaling £1.4Bn) of the many cases (PPF is aware of up to 20) where the government accepted responsibility for pensions:

- Environment Agency Pension Scheme
- Royal Mail Pension Scheme
- Remploi Pension Scheme
- Forensic Science Service Pension Scheme

“We shall ensure that employees can join a scheme that overall is no less favourable than the authority’s scheme. Therefore, employees should have no fear about their future pension scheme.”

Lord Fraser of Carmyllie
17/7/95 HOL Hansard Col 94 HOL Committee Stage:

3.1.2 By UKAEA/AEAT

“Because we know how highly our employees value their existing pension benefits it was agreed to protect these under privatisation legislation including full indexation.”

“Pensions What you need to know”²⁶, August 1996

“... the Secretary of State or the Authority... must be satisfied that the alternative provisions of the pension scheme... will be no less favourable overall than the Authority Scheme....”

UKAEA press release accompanying publication of the Atomic Energy Authority Bill 1995

It was a provision of the UKAEA scheme that the pensions would be paid by the Authority if the scheme was terminated for any reason⁹.

UKAEA pension scheme members received several reassuring statements about their pensions in the run up to privatisation. These are summarized in Appendix 1.

3.2 The Atomic Energy Authority Act

In this section we consider how a layman would reasonably interpret the relevant section of the Atomic Energy Authority Act 1995. This is important, because if the Act was meant to be interpreted in a narrow, specialised, way (as the government contends) this should have been explained to us clearly at the time.

The relevant section of the Act is Schedule 4. This part of the Act has not been repealed, contrary to what the DWP ‘factsheet’ says. Schedule 4 Section 6(1) of the Act says:

“The Authority²⁷ shall satisfy themselves that in his²⁸ case the provisions of that scheme²⁹ (taken as a whole) confer benefits which, taking into account other benefits³⁰ which he will obtain as a result of his employment by the transferee, are no less favourable than the benefits conferred by the provisions, as in force immediately after the coming into force of the transfer scheme, of the Authority pension scheme³¹ in which he is then a participant.”

²⁶ Pensions - What you need to know, AEA Technology Human Resources Group, August 1996. Sent when AEAT was still owned by UKAEA/Secretary of State.

²⁷ “The Authority” was the Secretary of State

²⁸ The person being transferred to AEA Technology

²⁹ The AEAT scheme (closed section)

³⁰ The only difference was a trivial technical difference so this does not affect the comparison

³¹ The UKAEA pension schemes

What does this mean to a layman? According to the Concise Oxford Dictionary:

provision means a legal or formal statement providing for something

confer means *grant, give*

benefits means payments made under insurance or social security

Note that, in normal use, a **benefit** is a payment. A benefit which is not paid (or only part-paid) is obviously worth less than a benefit which is paid in full.

The **provisions** of the UKAEA scheme contained a Crown guarantee that the benefits of the scheme would be paid in full, come what may. A reasonable person would think that the “benefits (taken as a whole)” of the AEAT scheme must also include such a guarantee, or something equivalent.

In correspondence with pension scheme members, GAD has indeed confirmed that the “no less favourable requirement” was “a test of the *value* of the provisions of the two schemes at the point of transfer or privatisation only”. This is important. It emphasises that the comparison was (or should have been) between the *value* of two streams of future payments.

We agree. In 1996, when the test was (or should have been) conducted, it was normal practice in business and in government to assign a lower *value* (expected NPV) to cash flows which are less certain to be forthcoming. It is also common sense: a bird in the hand is worth two in the bush.

On this basis, at the time of transfer, the *value* of benefits conferred by the AEAT Scheme was lower than the value conferred by the government-guaranteed UKAEA Scheme. The AEAT Scheme payments depended (though we were not told this at the time) on the long-term success of a newly-formed company whose profitability at the time was questionable⁸ and whose business model and organisation needed major changes.

By any normal standards, the AEAT Scheme was **less favourable**.

The government side contends that:

- ‘benefits’ are a feature of scheme design, not actual payments
- It was right to ignore, in the comparison, any consideration of whether the benefit payments would actually be made
- The ‘Authority’ (the Secretary of State) did not have a duty to consider what might happen after “the coming into force of the transfer scheme”

The government and their agents had a **duty of care** to pension scheme members. If this was their interpretation of the Act, they should have made it absolutely clear to us at that time.

Finally, we note that the option to leave pensions in the UKAEA scheme was also ‘less favourable’ because (as the GAD Note was at pains to point out) career earnings normally outstrip inflation, and that that option did not allow pensions to rise in accordance with earnings.

4 Our Complaints and the Lack of Investigations

4.1 Complaints made

4.1.1 GAD, UKAEA, DBEIS, DWP, IFoA, Ombudsmen (POS, PHSO)

Once the realization became apparent that we were to be denied the pension that we had worked for as part of our benefits, a number of us wrote letters to a range of organizations, who we had hoped would be able to help us to regain our rightful pensions.

Organization	Year	Detail
DWP	2014	<ul style="list-style-type: none"> • Question pension guarantees implied in documentation issued to employees. • Challenge to inaccurate “Fact Sheet” issued by DWP
Trustees	2014	What happened to the protection of “Closed Scheme” for transferred public sector benefits
GAD	2014	Negligence in claims made in Note
PPF	2014	Lack of indexation rights pre - 1997 for Public Sector benefits, despite the fact we had paid an extra 30% for full RPI indexation
Institute and Faculty of Actuaries	2019	Failure of GAD to comply with Code of Practice in 1996 <ul style="list-style-type: none"> • Misleading employees to transfer pension benefits • Failing to disclose difference in scheme security • Failure to carry out a risk assessment • Was influenced by UKAEA and AEAT in presenting options

The AEA Technology Pensions Dossier⁴ summarises the experiences of several members who complained.

In addition, as a campaign group, we wrote joint complaints as follows:

Organization	Year	Detail	
DBIS	2015	GAD note implied HMG underwriting (Hybrid Guarantee)	
UKAEA	2015-2018	Circulated GAD Note -complicit in “massaging” the message	
PHSO	2015–2020	Limitation of legislative remit prevents investigation	Public sector superannuation
PO	2015-2017		Limitation Act - Should have known a problem in 1997
FSO	2018		Only Private Pensions
Radcliffe Chambers Keith Rowley QC	2018	Before Nov 2011, a valid claim of “breach of duty of care in the GAD Note”. Despite strong moral and legal argument, there is a little chance of finding a legal remedy without addressing the limitation issue	
Select committees	2016, 2018, 2020	Work and Pensions	HMG mis-selling of Benefit transfer Pension scams

Organization	Year	Detail	
	2017, 2019, 2020	PACAC	Refusal of PHSO to deal with complaint & time taken
	2019	HoL EAC	RPI vs CPIH
	2019	BEIS	Failure to address complaint

4.1.2 Nature of the Government's response

Since 2012 the government and its agents have failed to address our principal complaint, that no-one told us that we would be giving up a Crown guarantee if we transferred our pensions.

The responses display a range of styles⁴. These include deep incompetence, buck passing and failure to answer questions. In some cases, lawyers have been employed to reply to pensioners' complaints. In some cases, the respondents have refused to divulge their legal advice on grounds of legal privilege. The responses are consistent with an underlying strong direction to stonewall and give no ground whatsoever.

A strategy they have often employed is to rewrite our complaints before responding to them. Occasionally they have used blatant untruths, for example:

"The GAD Note specifically refers to the risk that the AEAT pension scheme could fail"
DWP 'factsheet' p14

Occasionally there has been a glimmer of truth. For example in 2014 the deputy government actuary³² admitted, in reply to a question:

Q *"Did the GAD document state anywhere that the AEAT pension fund was at greater risk than the UKAEA pension fund?"*
A *"It did not"*

They have been very slow to respond to complaints. The Information Commissioner's Office criticised DBEIS for its disorganised and incomplete record keeping, which meant that FoI requests could not be properly answered.

After a couple of years of buck-passing between departments, DBEIS accepted responsibility for the case in 2014³³. Despite this, DWP continued to act as spokesperson for the government. We address the role played by DWP in the next section.

4.2 Investigations by government

4.2.1 The discredited DWP 'Factsheet'

DWP sent complainants a 'Factsheet'³⁴ dated July 2013.

We complained through our MPs to PHSO about the so-called 'factsheet'. PHSO did not address our criticisms of the Factsheet but merely stated that it *"accurately presented the government's response on the enquiries it had received about the scheme"*.

³² Letter George Russell, Deputy Government Actuary, to Keith Hammond, 17 Oct 2014

³³ Email Teresa Upton, head of Correspondence/DECC to Keith Hammond 2 Sept 2014

³⁴ 'Factsheet', July 2013, issued by DWP after consultation with GAD and others

In Appendix 2 we address each of the misleading claims that the so-called ‘factsheet’ makes.

4.2.2 Role of DWP

In August 2015, after our complaints, PHSO recommended³⁵ that:

“DWP should provide an apology to complainants for the confusion and inconvenience caused by its failure to explain its role and responsibilities when issuing its factsheet on the scheme”

It remains a mystery why DWP has continued to take the lead role for the government in responding to our complaints, issuing the ‘factsheet’, acting as spokesman in parliamentary debates, and so on, when DBEIS is the department responsible.

Pensions ministers have sown confusion wherever possible, to delay and frustrate complaints. In 2015 Steve Webb advised parliament that AEAT scheme members could take their complaint to Parliamentary Ombudsman, even though that ombudsman had already indicated that GAD was not within its remit.

But this was water off a duck’s back because in October 2016 the pensions minister Richard Harrington told parliament that the AEA Technology pensioners could take their complaints about GAD to the Pensions Ombudsman. This was despite the fact that, back in 2013, the Pensions Ombudsman had stated that the law prevented them from investigating a complaint against GAD. Harrington persisted with the same line even after he had been told, face to face by the ombudsman himself, that he could not investigate³⁶. Harrington’s successor, Guy Opperman, continued to promulgate the mis-statement in letters to MPs³⁷.

More recently, Opperman³⁸ has resorted to telling MPs (including the Chair of the W&P select committee) that:

“The matter has been thoroughly investigated by previous ministers”

even though DBEIS says that there has been no formal investigation.

What is more, even though DBEIS is department responsible for our case, it did not brief the pensions ministers who responded for the government in parliamentary debates!

Steve Webb was the pensions minister who, with his civil servants, met AEAT pension scheme members and their MPs in 2013 and dismissed their complaints. He also authorized the DWP so-called ‘factsheet’ and responded for the government in the first Westminster Hall debate.

However, by 2017 Webb had lost confidence in DWP, tweeting:

“Where is the accountability in this Dept?”

In response to a 2021 NAO report on incorrect pension payments, Webb said³⁹

“If the DWP has sat on this secret for decades, it makes you wonder how many other things simply get brushed under the carpet.”

³⁵ Report by the Parliamentary Ombudsman to Rt Hon Oliver Letwin MP, 17 Aug’15

³⁶ Letter Oliver Letwin MP to Richard Harrington, 24 March 2017.

³⁷ Letter Oliver Letwin MP to Guy Opperman, 29 March 2018.

³⁸ Letter from Pensions Minister to Stephen Timms MP, Chair, Work and Pensions Select Committee, 6Nov’20 (and letters to other MPs).

³⁹ The Independent, 17Jun’22

4.2.3 No formal investigation

As noted above, the current pensions minister Guy Opperman has told MPs (including the Chair of the W&P select committee) that *“the matter has been thoroughly investigated”*³⁸. But the department responsible (DBEIS) says⁴⁰. that there has in fact been no formal investigation!

There certainly has been no independent investigation.

4.2.4 Parliamentary debates

4.2.4.1 Westminster Hall Debates

Pensions ministers responded for the government in two debates in which MPs raised the question of misleading and incomplete information. The ministers avoided answering difficult questions and did not respond to our principal complaint; they merely ran down the time available for debate.

Date	Location	Proposer	Government Minister
March 2015	Westminster Hall debate	Sir Geoffrey Clifton-Brown	Steve Webb (Pensions Minister)
October 2016	Westminster Hall debate	Sir Oliver Letwin	Richard Harrington (Pensions Minister)

When pressed by Sir Oliver to explain why we had not been told that we would be giving up a Crown guarantee if we transferred our pensions, the minister could only offer the following, incredible, excuse:

“The GAD Note was already 8 pages long and couldn’t cover everything”

Richard Harrington MP, Pensions Minister
Westminster Hall debate on AEA Technology Pensions, October 2016

4.2.4.2 Private members’ Bills

The government has blocked two private members bills intended to allow PHSO to investigate:

Date	Location	Proposer
June 2019	House of Commons 10 minute rule Bill	Ed Vaizey
July 2021	House of Commons 10 minute rule Bill	David Johnston

⁴⁰ Letter 23Apr’21 from DBEIS to Mike Denham

4.3 Ombudsmen Prevented by Law from Investigating

4.3.1 Pensions Ombudsman

The difficulties we encountered in dealing with the Pensions Ombudsman Service (POS) are illustrated by the following, from a letter by Sir Paul Beresford MP⁴¹ on behalf of a constituent:

I have written to you before on this theme and now I must again strongly request that you work to answer Mr Hammond's questions in full. I would also request that you copy me in to the response which you send to Mr Hammond. I will repeat that I see nothing unreasonable, obscure or in any way untoward about what Mr Hammond is asking. Indeed, I might have thought that the Pensions Ombudsman Service would welcome the chance to lay out its reasoning on this case in order to put many minds at ease – assuming of course that you believe your handling of the case would stand full public and parliamentary scrutiny.

In correspondence with the POS (2015-2017) we rebutted a number of initial reasons they offered as to why they should not investigate (including the time scale between discovery and complaint; how our claim might impact other scheme members; process of entry to PPF; Trustee IDPR). We were able to satisfy that all of these had been addressed.

However, a POS lawyer then cited the Limitation Act as a reason why they could not investigate, on the basis that we should have known there was a problem in 1997. They refused to explain how we should have known this. The fact is that we only discovered the problem in 2012/3.

4.3.2 Parliamentary & Health Service Ombudsman

After a protracted correspondence with the PHSO (2015-2020), they claimed that they were prevented from investigating our complaint as their legislative remit prevents investigation of matters relating to Public sector superannuation. The reason for this restriction appears to be that public sector employees (including UKAEA employees) had access to Whitley Council machinery for resolving complaints, and therefore did not need access to PHSO.

We pointed out that UKAEA employees had already been transferred to the private sector company AEA Technology when the GAD note was issued, and therefore did NOT have access to a Whitley Council; this was before we transferred our pensions. However, PHSO remained adamant.

It appears that the legislation governing the PHSO created a no-man's-land in which we find ourselves.

4.3.3 Financial Ombudsman

Correspondence with FSO in 2018 confirmed that they do NOT apply the 15 year "long stop" Limitation Act to pension issues (under the Financial Services and Markets Act and the Consumer Credit Act). The reason for this was noted by Lord Hunt in his 2008 review of the FOS:

"I do not believe, however, that it is possible to specify a "long stop" date beyond which complaints cannot be considered, because the point at which the customer becomes aware of possible detriment will vary significantly, as these were long term financial issues."

Unfortunately for AEAT pensioners, however, the FSO ombudsman's remit covers only personal pensions and not company defined benefit pensions.

⁴¹ Letter from Sir Paul Beresford MP to Pensions Ombudsman, 27 Jun 2017

4.4 Other investigations

4.4.1 Legal advice

We consulted with Keith Rowley QC (Radcliffe Chambers). He noted the following:

In a document circulated to staff in August 1996²⁶, while AEAT was still in public ownership, the answer to a question posed “Is the AEA Technology Pension Scheme Safe” was clearly inadequate, downplaying the issue of risk. A subsequent document issued in September 1996⁴², neither section 3 (on page 2) nor section 8 on page 6 (What happens to the pension scheme if AEA Technology fails or is taken over) makes any mention of a Crown Guarantee, or lack of one.

The document “the Closed Section of the AEAT Pension Scheme”⁴³ issued on 24th September 1996, poses the question “What happens if the scheme discontinues?” – but again does not mention what would happen if the company became insolvent, nor of the lack of a Crown Guarantee.

The GAD Note on Options seems to be a “one off” in that it is not typical of notes prepared by GAD for this sort of event, of which Mr Rowley was aware.

There is a potential claim against GAD, who was responsible for the Note⁵ and any shortcomings. While they had invited comments from UKAEA, who in their turn had sought input from AEAT, Mr Rowley judged that GAD did owe a duty of care NOT to act negligently, and also observed that:

- The Note did not include a disclaimer.
- The Note did not say anywhere that the AEAT scheme was more likely to fail than the UKAEA scheme, and GAD have admitted this.
- GAD have admitted that they failed to carry out a risk assessment to support the claim that the AEAT scheme was unlikely to break its benefit promise.

Mr Rowley said that if we had sought advice earlier, for example in 2005 when the scheme deficit was first flagged, he could have prepared a valid claim based on “breach of duty of care in the GAD Note”. However, by the time we became aware of the lack of a Crown Guarantee in 2012, a successful claim was precluded by the 15 year time limit under the Limitations Act.

4.4.2 Institute and Faculty of Actuaries (IFoA)

We complained in October 2019 to the IFoA. They decided not to investigate the actuaries responsible for GAD Note.

Two documents prepared by the Government Actuary’s Department (GAD) in 1996 played a big part in the AEA Technology pensions scandal. Both were signed by Fellows of the IFoA.

1. The ‘1996 GAD Note’, which was procured by UKAEA from GAD, and provided to employees at that time. It purported to “outline the main factors to take into consideration in deciding whether or not to transfer accrued UKAEA Scheme benefits”.
2. The ‘certificate’, provided by GAD to the Secretary of State, relating to the latter’s duty re “pension benefits which are no less favourable” under the AEAT Act 1995. This certificate contained an important caveat “It assumes that the commitments and undertakings made by AEA Technology plc will be fulfilled”. The caveat was not revealed in the 1996 GAD Note, and the certificate was not

⁴² Answers to some commonly asked questions, Human resources Group, Harwell, 18 Sept. 1996

⁴³ AEA Technology Pension Scheme, explanatory booklet (Closed Section). AEA Technology 24 September 1996

disclosed to employees at the time. Members of the campaign did not see a redacted version until December 2014 (as the result of a FoI request), and an unredacted version until May 2018.

We alleged that Peter Noonan and Chris Daykin broke the Actuarial Code of Practice in force in 1996 in the GAD Note 1996 by:-

- Misleading former UKAEA employees into transferring their Government-backed pension benefits into a less secure Pension Scheme with AEA Technology.
- Failing to disclose that the AEAT Scheme was less secure than that of UKAEA – in fact presenting both to be of similar security.
- Failing to carry out a risk assessment of the potential failure of AEAT.
- Being influenced by UKAEA and AEAT to present the options in such a way as to encourage employees to transfer their historic pension benefits.

We provided supporting evidence concerning:

- The way in which GAD did not comply with the Actuarial Code of Practice at that time
- GAD's own documents showing that they were aware (in 1996) of the risks which they did not disclose in the Note
- FoI requests, which revealed that GAD had conspired with UKAEA to slant the emphasis of the Note
- GAD's acceptance, in 2014, that the Note "did not state anywhere that the AEAT pension fund was at greater risk than the UKAEA pension fund"
- The advice of a prominent pension QC in 2018, that GAD was at fault in their duty of care.
- A conflict of interest in GAD, arising from the three roles it played in the privatization.

Two years later the IFoA's Disciplinary Committee dismissed our complaint as follows, without giving reasons or explanation:

"The Panel acknowledged that the matters complained of were serious, and had impacted greatly on the members of the Scheme. However, the Panel noted that the complaint against the Respondent had been properly reviewed by the FRC who had instructed an independent expert, and the FRC Conduct Committee had determined that, even if proven, the conduct of the Respondent would not disclose a prima facie case of Misconduct. The Panel supported the FRC's findings and also agreed with the Advisory Report that it would be disproportionate for the IFoA to conduct its own investigations into the matters complained of."

5 Conclusion

We have explained how UKAEA pension scheme members were misled by government statements to parliament, statements from our employer (while AEA Technology was still in public ownership) and in particular the unique 1996 Note on Options from GAD. None of these disclosed that we would be giving up a Crown guarantee if we transferred our pensions into the new 'mirror-image' AEA Technology scheme. The risks of transferring our pensions were never explained to us.

On the basis of this mis-information, 90% of eligible people transferred their pensions, and pensioners now face the loss of about one third of the value of their pensions.

We have explained how the government has stone-walled our complaints, and how the ombudsmen say that they are prevented from investigating our case.

We trust that the NAO will investigate.

In the contemporaneous case of mortgage endowment mis-selling, claimants received compensation if they could show that the information given to them to inform their decision did not point out the risk that the benefits of the scheme might be less than designed.

Our case has obvious parallels to that, and we too seek compensation for the losses we have suffered and will continue to suffer on an increasing scale.

Appendix 1 Documents given to UKAEA staff transferring to AEA Technology

AEAT Pension (Closed) Booklet 24/9/1996			
	What was asked	Answer given/Statement	What NOT stated
Page 2	Introduction	AEAT Pension Fund provides financial security for you and your family.	It does not in the event of the fund being wound up while in deficit.
Page 5	How much do I pay?	7.5% if previously PNISS, otherwise 5.75%. AVC possible.	
Page 5	How much does the company Pay	Employer pays balance of cost to provide the promised benefits, life assurance etc. as determined by Scheme Actuary.	Unless they have gone bankrupt.
Page 7	Will my pension be increased after retirement?	Pensions are guaranteed to increase in line with RPI. Responsibility for increases in relation to GMP are split between Scheme and State.	No they are not, if the scheme is wound up while fund is in deficit.
Page 13	What happens if the scheme discontinues	The employer intends that the Scheme should continue indefinitely. The Employer is NOT permitted to amend the scheme in any way that reduces the value of benefits already accrued. If the fund were to be terminated, benefits would be secured out of the Scheme's assets. The Employer is required to make good any financial deficiency (Pension Schemes Act 1993)	Termination of the fund while in deficit combined with bankruptcy of the Employer will break this promise.

Answers to some commonly asked questions (18/9/1996)			
	What was asked	Answer given/Statement	What NOT stated
Para 1	Scheme structure and individual options	One pension scheme- with two sections. The Closed is equivalent to the UKAEA scheme.	The PPF have not recognised the higher contributions into the Closed section for RPI protection.
		Independent advice will be provided by Frizells (sic – should be Frizzells)	Generally encouraged staff to transfer benefits from UKAEA to AEAT Scheme.

Para 3 Past service	If I choose not to transfer my past service now, can I do so at a later date?	Past service can be transferred now under special terms – may not get 1:1 in future.	
	What is the difference between preserving and transferring past service?	If leave benefits in UKAEA – final pensionable earnings + index linking. If transferred to AEAT – get progressive salary increases.	No mention is made of difference in security between the two schemes. UKAEA cannot fail (as Treasury backed).
	Can I transfer my past service into the Open Section	No – only to closed section	
Para 5 Transfers in and out of the Scheme	Which section of the Scheme would give the most favourable Transfer Value, if I were to leave?	Cannot say, as Transfer Values are actuarial calculations. Both sections of the AEAT Pension Scheme is a member of the Public Sector Transfer Club, which provides advantages on transfer to and from other member schemes.	Transfer to PPF (not set up until Pensions Act 2004) attracts significant disadvantages.
Para 8 General	What happens if AEAT fails or is taken over	While AEAT as a private company is subject to market fluctuations, Pension assets are protected under Pensions Law by an Independent trustee Company, who are legally responsible.	Does not answer the question. AEAT failing is most likely to be combined with Pension Fund deficit, meaning the promises would not be met.
	Can benefits be devalued after privatization	AEAT has given an undertaking to DDTI that UKAEA benefits will be mirrored and maintained in the closed section and will not be devalued.	This statement is not true – in the instance of scheme winding up while in deficit.

Pensions – what you need to know (August 1996)			
Page 1	What will the new scheme be like?	Your existing pension benefits are protected under privatization legislation – to be NO LESS FAVOURABLE than UKAEA – including full indexation.	This is NOT the case (apparently) if the Pension Scheme is wound up while in deficit.
Page 2		<p>Closed – index linked (RPI) n years/80 + 3n/80 lump sum (7.5% contribution)</p> <p>Open - - indexation limited to 5% RPI n/60 with NO Lump sum. (5.75% contribution). AEAT contribution 7.5%.</p>	No mention is made of sustaining these.
Page 3	What about past service?	As long as salary increase is greater than inflation, pension benefits should be better in the closed section.	No mention is made of the risk of the fund failing.
	What choices will I have to make and when?	Only 25/9/1996 – 23/12/1996 to decide on previous service.	
Page 4	Is the AEAT Pension Scheme safe?	<p>Assets are held by the Trustees under Trust</p> <ul style="list-style-type: none"> • they act in the best interests of the scheme members • they are legally required to ensure the security of the funds and to maintain funding levels and undertake regular checks. • they have engaged the services of leading actuaries Bacon & Woodrow • fund administered by Goodwin's • money will be transferred from UKAEA to cover the benefit liabilities of past service. • they will provide annual reports 	It does not answer the question, or talk about the risks to the new fund by comparison with the UKAEA Scheme.

Consultative document (31/5/1996)			
Page 1 purpose	Check benefits "no less favourable"	<p>Introduction AEAT Act (1995)</p> <p>(2) gives a number of rights and safeguards re pensions</p> <p>(3) No less favourable than the benefits of the Authority Pension Scheme</p> <p>(5) Statutory duty owed ONLY to ex-UKAEA (Schedule 4) employees</p> <p>(10) Benefits are <u>unchanged</u></p>	No mention is made of UKAEA Treasury backed; AEAT apparently not – which is a significant difference in benefit value.

GAD Note (11/1996) Noonan
We discuss the GAD Note (1996) in Section 2 of the main document

UKAEA PNIS Booklet			
Section 10.12, p 121	If the scheme is terminated at any time, the Authority shall pay	<p>(a) Pensioners – continuing annual payments equal in amount and similar in character to those under the scheme.</p> <p>(b) Persons entitled to contingent pensions - equal in amount and similar in character to those under the scheme.</p>	On dissolution of the scheme, there is no financial risk to scheme members. This is VERY different from the AEAT Pension Scheme.

Documents post privatization			
UKAEA DBB 98.8 7.3 Pensions			
7.3.3		Transfer of notional surplus was not carried out, as it was poor value for Government.	Member benefits were not mentioned!
7.3.4		The reason given for not allowing an identical pension scheme in AEAT, was that potential purchasers might be able to offer something better!	No consideration of downsides of increased risk.
7.3.6		In the mirror-image scheme implemented, benefits were virtually the same as UKAEA.	No mention is made of withdrawal of Treasury funding as a difference between the schemes.

Appendix 2 Rebuttal of DWP Factsheet

DWP Factsheet Heading:	Different rules applied to each privatisation
Comments under that heading:	Each privatisation is unique and the approach on individual issues may vary accordingly
<p>Our Response:</p> <p>That may be so, but how does the Government justify protecting the pensions of some former Government employees and not others when those employees had no influence over the privatization process?</p> <p>Different Government employees, all in public sector pension schemes, but working for different Government departments, end up getting treated completely differently. If you work for a department that isn't privatised your pension is protected by the Treasury, if you worked for Royal Mail, BT, BAE, (and several other privatised bodies) your pension is protected by the Treasury under a Crown Guarantee, but if you worked for UKAEA before the privatization of AEA Technology you lose it. That is not what the Energy minister said would happen during the AEAT privatisation debate at the time in 1995. He gave numerous reassurances to Parliament that the AEAT pension would be safe. Quotes from the minister extracted from Hansard</p> <p><i>"the employees will have their incomes, pensions and entitlement to redundancy payments protected"</i></p> <p><i>"I can say as a matter of principle that the Government seek to protect the rights of public sector employees who move to the private sector. We shall certainly do everything we can in terms of TUPE and with regard to pensions, to make sure that a fair and just arrangement is reached."</i></p> <p><i>"When privatisation takes place, the Bill will place a statutory duty on the seller—us or the publicly owned company—to be satisfied that employees can join a pension scheme that is no less favourable than the authority's schemes."</i></p> <p><i>"Employees are AEA Technology's greatest asset. Without the skills of its employees, AEA would be nothing. We have no intention of selling employees short, and I am sure that the House will welcome the statutory reassurance that we are proposing."</i></p> <p><i>"On the question whether the new scheme that is provided by the purchaser is at least equivalent to the authority's schemes, that will be audited by the Government Actuary. In other words, we shall have the advice of the Government Actuary as to whether that undertaking is made. That assurance is coupled with the experience of privatisations over the past 10 or 12 years, when there have always been scare stories about pension entitlements, but when the final settlement has been recognised by all parties to be fair to the employees and to the contributors to the schemes. That seems to me to be the appropriate way forward."</i></p> <p><i>"subject to the absolute assurance that the new scheme must offer benefits that are at least equivalent to the existing authority's schemes"</i></p> <p>The employees were also told in writing the following:</p> <p><i>"Because we know how highly our employees value their existing pension benefits it was agreed to protect these under the privatisation legislation.....including full indexation"</i></p> <p>It appears that despite the assurances of protection, these have not been delivered in this case – which misled those employees transferring from the UKAEA to AEA Technology Pension Schemes.</p>	

DWP Factsheet Heading:	The Atomic Energy Act 1995 contains a guarantee on my pension
Comments under that heading:	<p>The Act has now been repealed, but at the time in section 4 it did contain a duty for the UKAEA or the Secretary of State to satisfy themselves, prior to the transfer to AEA Technology, that members of a UKAEA scheme was transferring into a scheme which provided “no less favourable” benefits than the old scheme.</p> <p>This is not a guarantee to underwrite the AEA Technology Pension Scheme. It ensures that at the time of transfer the benefits within the scheme design are, taken as a whole, of equal or better value than the old scheme.</p>
<p>Our Response:</p> <p>Although the Atomic Energy Act (1995) has been repealed, it has been replaced by a further act⁴⁴. The repeal by this (Energy Act 2004) Act of a provision of the Atomic Energy Authority Act 1995 (c. 37) does <u>not</u> affect that provision so far as it has effect in relation to—</p> <p>(a) a transfer scheme under that Act that was made before the coming into force of the repeal; or</p> <p>(b) a company that is a successor company by reference to such a scheme.</p> <p>Note also the words of the minister in the House of Commons detailed above that described the terms of protecting the employees’ pension. There is a clear intention by the minister to protect these pensions.</p> <p>Note also the statement above sent to employees stating their pension <u>was protected under the privatisation legislation</u>, including full indexation.</p> <p>Note also that if the pension was not underwritten by the Government then the new pension would be significantly less secure (particularly as at the time, there was no PPF fall-back position). Security of the pension is a significant benefit and therefore if this was the case then the minister and UKAEA would both have failed in their duty to ensure the scheme was “no less favourable”. <u>Without protection it is less favourable</u>.</p> <p>It is only reasonable for the employees to assume that the minister and UKAEA have performed their duties as laid down by law and therefore the pension was protected.</p> <p>However if the minister and UKAEA both failed in their legal duty then there is now a duty to compensate the AEAT employees for the failure of UKAEA and the minister in carrying out their duty at the time of ensuring the scheme was no less favourable.</p> <p>So under either scenario the employees should be protected by the no less favourable condition.</p>	

⁴⁴ Energy Act 2004 Schedule 23 Part 2 (2)

DWP Factsheet Heading:	The GAD note implied pensions were guaranteed
Comments under that heading:	The GAD note offered to members does not imply any guarantee. Indeed the GAD note specifically refers to risk that the AEA Technology pension scheme could fail.
<p>Our Response:</p> <p>The word 'fail' is never mentioned in the GAD Note and therefore does not specify the risk of Scheme failure.</p> <p>What it does say is "<i>Whilst it is unlikely that the benefit promise made by either the UKAEA scheme or the AEAT scheme would ever be broken...</i>" This gives equal prominence to the security of both schemes. No distinction between the security of the schemes is ever made anywhere.</p> <p>If not guaranteed, the risk should have been highlighted in section 3.2 of the GAD document (What are the advantages of preserving the UKAEA Scheme benefits?) as this would have been a clear advantage. It wasn't even mentioned. This was a huge omission.</p> <p>All this implies the AEAT scheme is as secure as the Treasury backed UKAEA scheme. This can only be so if the new scheme is guaranteed like the UKAEA scheme.</p> <p>The document also says "<i>this consideration should not normally outweigh those in relation to salary and inflation.</i>" Salary and Inflation are two reasons strongly emphasized in the GAD document for transferring to the AEAT scheme. So again dismissing the risk of failure.</p>	

DWP Factsheet Heading:	The GAD note was misleading and incomplete
Comments under that heading:	GAD could not have covered every possibility within the note. If it had attempted this then there would have been so many caveats that the document would be rendered meaningless
<p>Our Response:</p> <p>This comment about the Factsheet is nonsense. The purpose of the GAD note is explained in paragraph 1. 1.1 This note has been prepared by the Government Actuary's Department at the request of the UKAEA Superannuation Scheme administrators. The purpose of the note is to explain to those AEA Technology employees who have transferred from either of the UKAEA Superannuation Schemes (PNISS or ISS) to the AEA Technology pension scheme (AEAT Scheme) the options that are available in respect of their accrued UKAEA Scheme benefits which have been earned in the past. The note also outlines the main factors to take into consideration in deciding whether or not to transfer accrued UKAEA Scheme benefits.</p> <p>In Section 3 in the GAD document, specifically entitled “<i>Factors to consider in making a decision</i>”. It covered the situation if you are near retirement, it covered if you were expecting low pay increases, it covered if you were expecting to leave shortly, and it even covered if you were expecting to die in the short term.</p> <p>It did not say that it was not covering all options.</p> <p>It did not say “<i>Some factors to consider in making a decision</i>” It should say it is incomplete if that was the case. Why should we presume that?</p> <p>Surely one of the most significant factors to consider would be the security of the pension scheme? What could be more important than that?</p> <p>In reality, the Note omitted the following. No one could reasonably claim that these were not “main factors”:</p> <ul style="list-style-type: none"> • It did not state anywhere that the AEAT pension fund was at greater risk of failure than the UKAEA pension fund. • It did not point out that whereas the UKAEA scheme was paid directly by the Treasury, there was no such provision for the AEAT scheme. • It did not point out that whereas previous privatizations (BAE, BT, Amersham International, British Coal) had a provision for a crown guarantee (The Pension Protection Fund has confirmed that it is aware of up to 20 schemes with such guarantees), there was no such provision for the AEAT scheme. • It did not explain what would happen to members’ pensions if AEA Technology or the AEAT scheme should wound up, while in deficit. • It did not state that (as the Government now asserts) the “no less favourable” requirement of the Act expired on the day of privatisation – <i>which is a useless assurance for a long-term financial product such as a Pension.</i> 	

DWP Factsheet Heading:	The GAD note was misleading and incomplete
Comments under that heading:	The note refers to the risk of AEA Technology Pension scheme failing as being unlikely..... At the time, AEA Technology was a profitable organisation and therefore the assessment was not unreasonable.
<p>Our Response:</p> <p>Reiterating the comments above – the note never uses the word ‘failing’ and as previously mentioned no distinction was made between the security of the UKAEA (Treasury backed) and the AEAT scheme in the GAD document.</p> <p>To make the assumption that because AEAT was profitable at the point of privatisation then it would be safe for all time is plainly reckless. AEAT was a new and unproven company without an established commercial structure and customer base. Its principal customer, the UK Government, had a policy of placing a decreasing amount of work with the company. Many much, much bigger organisations in much more stable industry sectors have failed.</p> <p>A Treasury backed scheme has never defaulted whereas numerous private sector schemes have. Not to have provided any warning that AEAT pension was less secure simply because AEAT was profitable at the point of privatised was negligent, unless it was Treasury backed.</p>	

DWP Factsheet Heading:	The GAD note was misleading and incomplete
Comments under that heading:	While the note said that in relation to the risk that the AEA Technology Pension Scheme could fail
<p>Our Response:</p> <p>It never said that anywhere that the AEA Technology Pension Scheme could fail! This is just making stuff up. In separate advice offered by AEA Technology (note this refers to the wholly Government owned company which was later privatized to form AEA Technology plc):-</p> <p>‘What happens to the Pension Scheme if AEA Technology fails or is taken over?’</p> <p>It stated: ‘AEAT, like any private company will be subject to the fluctuations of the market it occupies. The pension assets are, however, <u>protected under pensions law</u> and the employer cannot use the pension fund to support the business. The scheme’s assets will be managed by a Trustee Company whose existence is not subject to the status of AEAT. The trustees are legally responsible for the proper management of the scheme, including making appropriate arrangements for future benefits if AEAT ceases to exist.’</p> <p>‘Can the benefits quoted in the new scheme be devalued after privatisation?’</p> <p>It stated: ‘AEAT has given an undertaking to the Department of Trade and Industry, as part of its agreement for privatisation, that the benefits in the UKAEA scheme at privatisation will be mirrored and maintained in the Closed section of the new scheme and will not be devalued.’</p> <p>Shortly afterwards, detailed booklets were issued for each of the schemes. This set out all the details of the Pension Schemes. The only section on risk came at the end entitled “<i>What happens if the scheme discontinues</i>” which stated:</p> <p>‘The Employer intends that the Scheme should continue indefinitely. However it reserves the right to discontinue or amend the Scheme at any time. The Employer can do this without the agreement of the trustees, but is not permitted to amend the Scheme in a way that reduces the value of the benefits that the members have already accrued. The Trustees do not have the right to amend the scheme without the agreement of the Employer. If the scheme were to be terminated, your benefits would be secured out of the scheme’s assets in accordance with the Trust Deed and rules. The employer would be required to make good any financial deficiency in scheme on its termination in accordance with the terms of the Pension Schemes Act 1993.’</p> <p>In none of the advice offered is the winding up of an underfunded pension fund identified as a possibility , nor is it stated that if this happened the pensions (in contrast to the UKAEA scheme) would <u>not</u> be protected by Crown guarantee.</p>	

DWP Factsheet Heading:	The GAD note was misleading and incomplete
Comments under that heading:	The GAD note makes it clear that members should seek independent financial advice
<p>Our Response:</p> <p>Again this is just making stuff up. Nowhere does it say this. It is another example of taking statements out of context or adding words that were never printed. The implication of this DWP comment is that if the GAD Note was misleading and incomplete, the reader should have found this out from an independent financial adviser! I did consult an IFA, who stated that they regarded GAD as the ultimate authority, and deferred to their advice.</p> <p>It does say in 1.1.3 'The note is not intended to suggest that any one course of action was better than any other. This would depend upon individual circumstances, and if you are unsure of the most suitable course of action you should seek Independent Financial Advice which would take into account your particular circumstances' i.e. - "if you are unsure of the most suitable course of action you should seek independent financial advice". It did not say that everyone should seek his advice.</p> <p>Section 2 discussed each option: transfer to the AEAT scheme was covered in 2.2:</p> <p>2.2.4 'The overall effect of taking a transfer value is that the whole of your benefits (including that part based on UKAEA Scheme service) will be provided by the AEAT scheme. The benefit structure of the closed section of the AEAT Scheme is very similar to that of the UKAEA Schemes, so that your transferred benefits will be identical (or very close) to those you would have received if you had been able to continue to contribute to the UKAEA Scheme for future service. If you take advantage of the special transfer terms and also remain in the closed section of the AEAT Scheme, your total benefits will be identical (or very close) to those you would have received if you had been able to continue to contribute to the UKAEA Scheme for future service.'</p> <p>The factors identified to consider in making the decision were stated ⁴⁵ (in summary) as:</p> <p>3.1.1 'Benefits based on transferred service to the AEAT scheme are likely to be higher than preserved UKAEA Scheme benefits' because 'pay levels increase faster than price levels' and pay levels 'may increase further as the result of performance and promotion awards'.</p> <p>3.1.2 In the case of early retirement or redundancy, the UKAEA pension will not normally be available until normal pension age is reached.</p> <p>3.2.1 On the other hand, leaving the benefits in the UKAEA could be better if pay increases are lower than cost of living indexes</p> <p>3.2.2 If you die in service before normal retirement age lump sums would be paid by both schemes.</p> <p>The most relevant sections in the GAD document for my complaint are: 2.2.4 (cited above) and</p> <p>3.2.3 'The effect of preserving your UKAEA benefits is that your total benefits will be payable from two independent sources. Whilst it is unlikely that the benefit promise made by either the UKAEA scheme or the AEAT scheme would ever be broken, it is still more unlikely that both promises would be broken, and this could be viewed as a reason to opt for preservation. However, this consideration should not normally outweigh those in relation to salary and inflation, although it might be taken into consideration where the other factors were very finely balanced'</p>	

⁴⁵ Past Service Option. Letter from Y Murray, AEA Technology plc Human Resources, 13 November 1996

In essence, GAD advised that final retirement pension benefits would be higher if past service was transferred to the AEAT scheme if future pay rises were greater than the cost of living. It was stated that the risk of failure of either scheme was similar so that factor need not be taken into account when making a decision.

This advice was sufficient for nearly everyone to be sure. Based upon the glowing reasons for transferring given in section 3.1 then only if you fell into one of the criteria given for not transferring in 3.2 would you be unsure of transferring. As there were no other reasons given for not transferring, how could most people be unsure? So under these circumstances (which would apply to nearly everyone) the document (prepared by government actuaries for goodness sake) has made it abundantly clear you should transfer and therefore there is no reason to be “unsure”.

For the record, those people that did seek advice from IFAs were all told that they should rely on the advice given in the GAD document. After all IFAs are not actuaries and do not have access to the records that GAD had. So those most qualified to advise on the security of the AEAT pension scheme were GAD themselves. However:

- It did not state anywhere that the AEAT pension fund was at greater risk of failure than the UKAEA pension fund.
- It did not point out that whereas the UKAEA scheme was paid directly by the Treasury, there was no such provision for the AEAT scheme.
- It did not point out that whereas previous privatizations (BAE, BT, Amersham International, British Coal) had a provision for a crown guarantee (The Pension Protection Fund has confirmed that it is aware of up to 20 schemes with such guarantees), there was no such provision for the AEAT scheme.
- It did not explain what would happen to members' pensions if AEA Technology or the AEAT scheme should be wound up, while in deficit.
- It did not state that (as the Government now asserts) the “no less favourable” requirement of the Act expired on the day of privatisation – *which is a useless assurance for a long-term financial product such as a Pension.*

How could an IFA have identified these when GAD did not?

DWP Factsheet Heading:	Government did not give AEA Technology sufficient money to cover the pensions
Comments under that heading:	The amount transferred from the Government to AEA Technology in respect of the pension scheme was agreed between the two parties
<p>Our Response:</p> <p>The 1997 Annual Report of the AEAT Pension Scheme stated that in September 1996 payments of £147.5M had been received from the Treasury in respect of the transfer value for members' past service in the UKAEA schemes, and that it had 3317 members (2719 in the Closed section); nearly 90% had opted to transfer their past service (some representing over 30 years) by the deadline of 23 December 1996 from the UKAEA.</p> <p>The members were not a party to that agreement. Is the Government actually suggesting that if it transferred a totally inadequate amount of money that bears no relationship to the commitment it has made and if the other party is daft enough to accept it then the pensioners they represent just have to accept that and lose their pension? There is a comment in a document we obtained from BEIS/DBIES originally from DTI files, 7.3. Pensions, Files: DBA 2/12, 2/30, 2/33) 7.3.3 (b) To transfer any of the notional surplus to a new scheme on vesting would have meant that surplus (would then be real) transferring to the private sector. GAD advised that the Government usually only received about 50p for every £1 of surplus – there were therefore compelling value for money arguments for not going down this route. This seems to be saying that none of the notional surplus was transferred to the new pension fund – does that mean that part of the money we paid into the scheme was taken by the Treasury?</p>	

DWP Factsheet Heading:	Government did not give AEA Technology sufficient money to cover the pensions
DWP Comments under that heading:	It must be remembered that the security of the (a) member's pension depends not only on how much money was transferred but other factors such as the amount of further contributions that have been paid, investment strategy, salary increases, etc. It is not possible to disaggregate any of these and attribute cause to one specific item.
<p>Our Response:</p> <p>Although the first sentence in this statement is true, the second isn't. It is logical to conclude that there were insufficient funds transferred - because presumably if the correct amount of funds were transferred in accordance with conditions that prevailed at the time, and shortly after that conditions in the marketplace changed adversely, then this would mean that the funds were now considerably insufficient. Although the precise shortfall might be difficult to calculate to the exact pound, that shouldn't prevent a sensible correction by UKAEA on the advice of GAD. It should also be noted that a proportion of the notional surplus on the UKAEA pension fund was <u>not transferred</u> which might have mitigated the deterioration in the market place. The purpose of a surplus is to smooth out the ups and downs of the market. The AEAT fund was deprived of that opportunity so went into deficit when there was a downturn.</p> <p>In response to one of our letters, GAD have stated that "the amount transferred were determined as being sufficient at the time of transfer to meet the pension liabilities being transferred if those amounts were invested in index linked gilts"⁴⁶.</p> <p>Has a calculation been carried to determine whether this is still true? Recent correspondence with GAD implies that it has not³². However, it should be a simple enough task for an actuary. So ignoring future service and pay increases, would there have been enough funds today based upon index linked gilts from the date of transfer to meet pension commitments earned up to the point of transfer? If not then the corollary is that insufficient sums were transferred.</p> <p>The pre-privatisation pension fund for both transferred and non-transferred employees should have been broadly the same as they were intended to produce the same pension as the schemes were more or less identical. However just a decade after transfer, the transferred fund was significantly depleted by market forces whereas the liability would have increased due to increases in longevity. The commitment for the non-transferred employee would have been increased automatically and significantly by the government, whereas the funds available for the transferred employees would have been reduced, yet these people accrued allegedly the same government pension! AEAT plc made considerable extra contributions of 17.5% in 2003, but to no eventual avail.</p>	

⁴⁶ Letter from George Russell (Deputy Government Actuary) to Keith Hammond 5th September 2014