



Ministry  
of Defence

Ministry of Defence  
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Ref: [REDACTED]

[REDACTED]

11 December 2015

Dear [REDACTED],

Thank you for your letter of 8 November in which you requested the following information:

*I have received a copy of the attached MOD Letter dated 9 September 2014 that asked the GAD 'to advise on a method that would place these members (and any others that may come forward) back in the position they would have been at the point of transfer'. Please advise under the Freedom of Information Act 2000 what is the precise meaning of this?*

*Is it your intention to allow Gurkha officers and soldiers who have been financially disadvantaged by this, some of whom had lower pensions in AFPS compared to their GPS pensions at the point of transfer contravention of Regulation 2 (3)(b) of Schedule 28 of the 2004 Finance Act, to mark time at the GPS pension rate until their AFPS 75 pensions overtake their GPS pensions?*

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA). A search for the information has now been completed, and I can confirm that information is held which falls within the scope of your request. I apologise that your letter of 28 September was not acknowledged.

In regard to your first question, this information is contained in the April 2008 "Financial Redress for Maladministration Guide" - part two, Basic principles section headed 'Offsetting amounts against the overpayment or overprovision of benefit'. For ease of reference, I have extracted the relevant section below:

"Financial redress may be appropriate in cases where there is either an outstanding overpayment or overprovision of benefit. An overpayment of benefit results from a customer error or failure to disclose information. An overprovision of benefit results from an Agency error, for example, a failure to act upon information received. The decision on whether financial redress is appropriate should not be influenced by the existence of an overpayment or overprovision. However, before a special payment is made, consideration should be given to deducting any such overpayment or overprovision from the special payment".

In regard to your second question, I have enclosed a copy of a letter that Veterans UK wrote to [REDACTED] on 18 December 2014 "Internal Dispute Resolution Procedures". Please refer to paragraph 5, page 2 in respect of how the arrears have been calculated.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1<sup>st</sup> Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail [CIO-FOI-IR@mod.uk](mailto:CIO-FOI-IR@mod.uk)). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.org.uk>.

Yours sincerely,

Defence People Secretariat