

Ombudsman's Determination

Applicant	Mrs N
Scheme	The Armed Forces Attributable Benefits Scheme (the AFAB Scheme)
Respondent	Veterans UK

Outcome

1. I do not uphold Mrs N's complaint and no further action is required by Veterans UK.

Complaint summary

2. Mrs N's complaint concerns Veterans UK's decision to decline to pay her a discretionary award under the AFAB Scheme, following the death of her husband, Mr N.

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. Mr N served as a flight navigator for the Royal Air Force (**RAF**), and he was a member of the Armed Forces Pension Scheme 1975 (**the Scheme**).
5. The relevant rules are contained within the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (**the Rules**). Schedule 2 Rule C.1 provides:

“(1) Subject to paragraphs (2) and (4) a surviving adult dependant is entitled to short term and long-term compensation and a survivor's attributable lump sum as compensation for a person's death in accordance with the provisions set out in this part where -

(a) it has been accepted for the purpose of articles 23 and 24 of the Service Pensions Order that the death was attributable to or hastened by -

(i) an injury which was attributable to the person's service in the Army; or

(ii) the aggravation by such service of an injury which existed or arose during such service;

(b) the service referred to in sub-paragraph (a) was service in the Army in the period in the period (sic) beginning with 31st March 1973 and ending with 5th April 2005;

(c) the service referred to in sub-paragraph (a) was not excluded service; and

(d) the Defence Council accepts on the balance of probabilities that the death was attributable to or hastened by the person's service..."

6. Between 1969 and 1974, Mr N served as a Flight Lieutenant Navigator. During this time, Mr N, and his crew, would be deployed to retrieve radioactive isotopes following the detonation of an atomic weapon.
7. In 1980, Mr N was medically discharged from the RAF's service for drug non-compliance resulting in epilepsy. However, on appeal in January 2019, the reason for Mr N's discharge was changed to "viral infection with epileptic form attacks". Subsequently, he was awarded a 20% disability pension under the War Pension Scheme (**WPS**).
8. On 12 March 2019, Mr N died, and Mrs N was granted a War Widows Pension under the WPS.
9. On 7 February 2020, Veterans UK wrote to Mrs N and said that:-
 - As she was awarded a War Widow's Pension under the WPS, she would automatically be considered for a discretionary award under the AFAB Scheme. The case had been reviewed by a Deciding Officer (the **DO**) under the Discretionary Awards Review process.
 - If disablement or death was caused while in service, or up to seven years post service, the WPS must pay AFAB benefits. That is, unless it can be proven that the disablement/death was not caused or hastened by the service. The AFAB Scheme requires evidence that demonstrates that a member's death/disablement was caused or hastened by previous service.
 - A Medical Adviser (the **MA**) appointed by Veterans UK had reviewed any medical evidence relating to Mr N's death. The MA also reviewed a medical discharge report from 16 August 1980, Mr N's service medical records and medical evidence from the WPS team and synopsis on the causation of atherosclerosis (narrowing of the heart's blood vessels). The MA noted that Mr N was discharged from the RAF due to epilepsy.
 - The MA had reviewed the notes and evidence associated with Mr N's death and advised that the cause of death was a heart attack brought on by atherosclerosis. Mr N's strokes were likely caused by high blood pressure. There was evidence that Mr N had high blood pressure from 2004, with very high blood pressure

recorded in 2007. Atherosclerotic artery disease may have contributed to his strokes and vascular dementia.

- The MA advised that, following a review of the synopsis of causation for atherosclerosis and coronary heart disease, atherosclerosis is the most frequent cause of chronic heart disease. Increased risk factors for these conditions included high blood pressure, type 1 diabetes, high cholesterol and lifestyle factors.
 - The MA understood that Mrs N had claimed that Mr N's illnesses were caused by exposure to nuclear fallout. However, there was no reference in Mr N's service medical records to indicate that he was exposed to ionising radiation associated with nuclear fallout. Even if Mr N was exposed to any form of nuclear fallout, this was unlikely to hasten, or have been the cause of his death in 2019.
 - Overall, the MA concluded that Mr N's death was caused by heart disease, which is unfortunately a common form of death. There was no evidence that his service with the RAF contributed to or hastened his death.
 - The DO reviewed the MA's opinion, and the associated evidence, and noted that there was no reference to the after-effects of exposure to nuclear fallout. On the balance of probabilities, the DO agreed that Mr N's death was not caused or hastened by his RAF service. So, Mrs N was not entitled to any AFAB benefits.
10. On 5 August 2020, Mrs AN, Mrs N's daughter, wrote to Veterans UK, on behalf of Mrs N, as she did not agree with its decision regarding Mrs N's eligibility for attributable benefits. She provided a number of documents for Veterans UK to consider. Mrs AN's comments are summarised in paragraphs 11 to 21 below.
 11. She had reviewed copies of hundreds of letters between her father and the Ministry of Defence (**the MOD**), in addition to any of his medical records that were available and not classified. She believed that there was a direct link between his death and his service.
 12. Before 1977, Mr N had an "unremarkable medical history". After 1977, Mr N contracted an "unnamed virus" and he was diagnosed with viral encephalopathy, after a brain scan, resulting in a 12 month ban from flying. The ban was to allow sufficient time to pass to see if he developed any form of epilepsy.
 13. On 22 January 1980, Mr N experienced a grand mal seizure with an x-ray indicating a minor erosion of the post inner wall of the pituitary fossa gland. Prior to this, an x-ray in 1977 did not detect any abnormalities. At a later date, it was determined that Mr N was suffering from viral encephalitis (swelling of the brain) instead of viral encephalopathy.
 14. By February 1982, Mr N was experiencing a grand mal seizure two to three times a month. This resulted in prolonged headaches, mood swings and increased temper outbursts. A CT scan in 1983 showed temporal lobe abnormalities and brain atrophy

confirming a decline in his condition since he was discharged. As a result, his anti-epileptic drugs were increased.

15. In 1995, vascular heart disease was detected in Mr N, but this was not followed up. It was at this time that Mr N stopped taking his medication for his epilepsy. There was no change in the frequency of his seizures and his mental clarity improved. However, this was then proceeded with a period where he experienced 12 seizures in a single day and was admitted to hospital when his doctors and family found out that he had ceased his epilepsy medication due to its side effects.
16. In 1999, Mr N's neurologist prescribed him with new epilepsy medication to manage any negative side effects he had been experiencing. However, shortly after this there was an error which resulted in Mr N over medicating on his new prescription. This resulted in five consecutive heart attacks, and he was diagnosed with atherosclerosis and ischaemic heart disease.
17. In 2000, Mr N was prescribed a new epilepsy drug which decreased the frequency of his seizures allowing him to regain his driving license. However, there was a stark decline in his short-term memory. In 2002, Mr N and Mrs N moved to France, and it was agreed that his epilepsy prescription would be delivered to his French address, with Veterans UK paying for the prescription. However, due to an administrative error in the labelling of Mr N's epilepsy medication, the funding for his prescription was cut off.
18. Mr N applied for a review of his disability and its causation; however, his request was declined by Veterans UK due to the amount of time that had passed since his discharge. Instead, a decision was made to increase Mr N's disability pension to 70%. This was later increased to a 100% disability pension in 2009. In September 2009, Mr N fell down the stairs and broke his elbow, wrist, and several ribs.
19. Mr N was exposed to dangerous levels of ionising radiation during his time as an RAF navigator while on nuclear cloud sampling after French and Chinese nuclear test detonations. A number of these trips were made too soon after detonations, subjecting Mr N to unnecessary risk of ionising radiation. It was likely Mr N was exposed to dangerous levels of radiation, ingesting ionising radiation through his planes flight ventilation system or when he disembarked the contaminated aircraft.
20. The majority of Mr N's medical records, from his time as an RAF navigator, were unavailable/classified. So, it was impossible to ascertain the true level of radiation he was exposed to. Ionising radiation can suppress the immune system, reduce the effectiveness of vaccines, increasing the likelihood of exposure to viruses while abroad. He caught a virus in 1977 which led to him contracting viral encephalopathy/viral encephalitis resulting in epilepsy. So, the root cause of his incapacity was not epilepsy, but instead a virus which was directly linked to his service while based in the Pacific, far east and central/south America.
21. Mr N took epilepsy medication for a period of up to 40 years before his death. The prolonged use of this medication led to atherosclerosis, which is known to result in

ischemic heart disease and heart attacks. Mr N's cause of death was thought to be either a heart attack or a brain haemorrhage. However, it was likely a brain haemorrhage as Mr N was diagnosed with cerebral atrophy in 1983, and vascular disease in 1995 and then with ischaemic brain disease with lesions in 2001. This was all the direct result of him catching a virus due to a compromised immune system from ionising radiation.

22. On 22 September 2020, Veterans UK wrote to Mrs AN and said that her appeal, on behalf of Mrs N, for AFAB benefits was considered by a DO under the discretionary award's appeals review. The DO did not agree that Mrs N was eligible for AFAB benefits and explained that:-

- If a claim for disablement/death is brought more than seven years post service, the onus is on the claimants to evidence a link between service and death/disablement. Evidence must be provided that, on the balance of possibilities, disablement/death was caused, or significantly hastened, by the previous service.
- Medical advice was received from a Senior Medical Adviser (**SMA**) in connection with the appeal. Service documents including dosimetry data held by the Atomic Weapons Establishment (**AWE**), medical records for in service and post service were carefully considered in addition to the appeals documentation.
- The SMA also reviewed the MOD policy on radiation related compensation, the contents of which was validated by PHE and the Independent Medical Expert Group. The policy included a section on the relation between ionising radiation and atherosclerosis and any related cardiovascular and cerebrovascular disorders (disease of the blood vessels in the heart and brain).
- An AWE report, from 2 June 2003 states that, as an RAF navigator taking part in UK operations, in Peru between 1969 and 1974, Mr N's exposure to ionising radiation was monitored. In total, he was exposed to 2.18 mSv radiation. See appendix one for a list of operations that Mr N was a part of which contributed to his exposure to 2.18 mSv.
- A policy note, for claims of ionising radiation related conditions, confirmed that atherosclerotic heart and cerebrovascular disease may be associated with radiation exposure. However, the threshold to cause such conditions is 500 mSv, whereas Mr N was exposed to 2.18 mSv.
- As Mr N died aged 78, in addition to the service-related exposure to mSv, during his lifetime he would have been exposed to 78 times 2.6 mSv (202.8mSv) through natural background radiation. So, his mSv exposure was significantly below the threshold of 500 mSv for conditions related to radiation exposure.
- The SMA advised that there were no other service factors that could have contributed to Mr N's ischaemic heart disease, vascular dementia, shared underlying atherosclerosis and basic underlying pathology.

- Atherosclerosis is accepted as a matter of age, family history, diet, and lifestyle. Detection of long post service high blood pressure, between 2002 and 2007, was a potent factor in accelerating atherosclerosis. The SMA could find no causal link between the primary cause of Mr N's death, including atherosclerosis, and his previous service in the RAF.
 - The DO also reviewed the appeal, the evidence available, and the SMA's opinion and agreed with the opinion of the SMA. The DO concluded that Mr N's death was not linked or caused by his previous service.
23. On 4 June 2021 and 20 July 2021, Mrs AN wrote to Veterans UK and provided it with a substantial number of documents that she had reviewed in relation to Mr N's service/death. She provided her own interpretation of many of the documents and added that a number of classified documents had not been considered during Mrs N's appeal for attributable benefits. In particular, she had requested, but was declined, sight of a Flt Lt. W Podmore's (a radiation safety officer) health and physics diary ES 23/24, which covered operations: Alchemist; Attune; and Radius that Mr N was a part of.
24. On 24 August 2021, Veterans UK responded to Mrs AN and said it had made an application to receive a copy of Flt Lt. W Podmore's health and physics diary ES 23/24 from the Defence Nuclear Organisation (**DNO**) Secretariat. Upon receipt of the diary, the Chief of Defence People MA (**the CDP MA**) would conduct a full review on the decision to decline Mrs N's AFAB Scheme benefits.
25. On 2 December 2021, Veterans UK wrote to Mrs AN and explained that it was declined access to Flt Lt. W Podmore's health and physics diary ES 23/24 as it remained classified. However, an AWE subject matter expert provided a summary note of the diary. The summary note, and all the information Mrs AN had provided, were reviewed by the CDP MA.
26. The summary note said:-
- File ES 23/24 monitored the radioactive debris from foreign atmospheric and underground nuclear weapons tests from 1970 to 1972. It looked at the ability to detect radioactivity on an aircraft while flying through radioactive clouds and the ability to remove the contamination.
 - The crew wore masks, but their clothing showed contamination in the shoulder/upper sleeve and gloves, giving counts of 100-200 cps. Though it did say that all of the crew's clothing was fit to re-use again.
 - Mr N was mentioned once in relation to contamination of gloves and legs with an alpha dose of 20 unidentifiable units.
27. In summary, the CDP MA explained that:-
- There was no further information available from the ES 23/24 physics diary, nor was there any available information on quantitative exposure during the French

and Chinese nuclear weapons tests. A letter from the air historical branch of 24 March 2003, and from the AWE dosimetry information of 2 June 2003, provided an assessed total effective dose of 2.18 mSv from those who participated in RAF Lima.

- The DNO and the AWE were unable to provide any information or comment on Mr N's case, despite several requests for radiation exposure information.
- Many of the documents provided by Mrs AN were articles from websites or newspapers with her own commentary going well beyond that of any recorded material facts. None of the evidence submitted provided any insight, or proof, of a causal link between Mr N's death and his service. Mrs AN's detailed summary of Mr N's service and illnesses was noted but, "much of this is a personal and selective interpretation of the contemporary recorded evidence and such opinion is not recorded as held by his treating clinicians."
- The evidence provided by Mrs AN did not support a causal link between Mr N's seizures and his RAF service. Consequently, any connection between the medication Mr N took to treat his epilepsy and his circulatory disablements was not relevant nor linked to his service.
- Despite an extensive literature search there was no appreciable evidence from published peer reviewed mainstream journals about an adverse effect of ionising radiation on viruses, disorders of the central nervous system, cardiovascular or circulatory systems.
- Mr N's death was sudden and there was no autopsy performed thereafter. It was noted that his GP considered the cause of death to be atherosclerosis leading to a sudden heart attack/stroke. Generally, any causal link between a stroke and exposure to radiation was even smaller than between a stroke and ischaemic heart disease.
- Generally, non-cancer related illnesses are not considered health risks following exposure to low doses of ionising radiation. Though, evidence was emerging that cardiovascular disease and cataracts may follow on from exposure to low doses of ionising radiation of 500 mSv. However, cardiovascular disease is a leading cause of death in high income countries, accounting for up to half of all deaths. Risk factors for cardiovascular disease included: hypertension, family history, being male, high lipid levels, cigarette smoking and diabetes mellitus.
- Epidemiological studies held limited power in detecting excess risk of cardiovascular and circulatory disorders because of low dose ionising radiation (less than 500 mSv). This is because of the multiple risk factors that could cause these disorders. Other limiting factors influencing these studies were "the accuracy of dosimetry in historical cohorts, follow up duration after exposure, and use of data linkage and the risk of recording incorrect cause of death when no autopsy has taken place."

- There are several unanswered questions about whether there was a threshold dose that developed, or accelerated, cardiovascular disorders. There was also uncertainty in the timeline for development versus exposure. That is, did exposure impact the disease incidence or progression. There was a substantial lack of information on radiation exposure relating to atherosclerosis, cardiovascular disease, and circulatory diseases.
- Based on the available published evidence, and the advances in understanding disorders under consideration, in general, and in Mr N's specific case, there was no causal link between Mr N's cause of death and his RAF service.

Adjudicator's Opinion

28. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by Veterans UK. The Adjudicator's findings are summarised below:-

- There was an extensive number of exchanges of information between Mrs AN and Veterans UK. Mrs AN provided summarised comments on newspaper/website articles, medical opinions/reports, and documents in relation to the complaint accepted for investigation. However, the Adjudicator did not agree that the information provided necessarily supported her complaint regarding the decision-making process undertaken by Veterans UK.
- The majority of the documents submitted for consideration by Mrs AN and Mrs N were studies/opinions on the effects of nuclear fallout on an individual and the potential after affects. The documents also included information on the operations Mr N undertook, although a substantial amount of information was classified and unavailable for review.
- Mrs AN submitted that after exposure to ionising radiation, Mr N's immune system was compromised, and he contracted an "unnamed virus". This virus led to Mr N contracting viral encephalopathy/viral encephalitis, which resulted in epileptic fits. As a result of Mr N's prolonged use of epilepsy medication, he developed atherosclerosis, which was known to result in ischemic heart disease and heart attacks. Mrs AN believed this demonstrated a direct link between Mr N's suspected cause of death being a heart attack with haemorrhagic strokes.
- The decision to decline Mrs N's claim for AFAB Scheme benefits by the MA, the SMA and the CDP MA was reasonable based on the evidence available at the time. The evidence available did not support Mrs AN's claim that Mr N's epilepsy was caused by his service/exposure to ionising radiation. So, it was not possible to infer that his death was caused by a condition that was either attributable to or hastened by his service with the RAF.
- Regarding Rule C.1, the Adjudicator agreed that Veterans UK had applied the correct interpretation to the eligibility requirements for attributable benefits. Rule

C.1 clearly provided that entitlement to benefits arises where the member's death is accepted as attributable or hastened by his/her service. The Adjudicator was satisfied that Veterans UK had only considered all relevant information available to it without considering any irrelevant information.

- It was noted that Mrs AN believed that a significant number of documents that she had provided were not considered in determining Mrs N's eligibility to AFAB benefits. A difference of opinion between Mrs AN and Veterans UK's appointed MAs, on the interpretation of the evidence provided, did not mean that it was ignored, just that it may not have been relevant or applicable to the case.

29. Mrs N and Mrs AN did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs AN provided her further comments, on behalf of Mrs N, which are summarised in paragraphs 30 to 44 below.
30. The summary of operations that Mr N was involved in between 1969 and 1974 (appendix one) was incorrect. She provided an updated summary of the operations Mr N undertook between the same period (see appendix two).
31. Up until Mr N's death he received payment of an AFAB and a WPS as his service was attributable to his disablement. Consequently, this should act to demonstrate that there was a clear causal link between his service and his death as there was a clear link between his service and his disability.
32. When Mr N was medically discharged in 1980, the MA refrained from looking into Mr N's medical past. This led to the suppression of information regarding his exposure to ionising radiation and the classified vaccinations he received. There were also a number of health and safety violations during Mr N's time as a navigator of aircraft Victor. Namely the aircraft was routinely flown into nuclear cloud hot spots, for an hour or more, despite the type of aircraft being known as having radiation leakage issues.
33. To treat his epilepsy, Mr N took anti-epileptic drugs (**AED**), however, it was noted by a Squadron Leader Dr Merry of the Central Medical Establishment, that Mr N's epilepsy seemed resistant to AEDs. She believes that the RAF neglected to provide Dr Merry with Mr N's medical records, information about the vaccinations he received, or confirm that he ingested 100% oxygen while nuclear cloud sampling between 1969 and 1974. During this time, Mr N should have been under the care of toxicologists/virologists to determine why his AED were exacerbating his epilepsy. Withholding this information likely prevented a suitable health care regime from being identified.
34. In 1995, an NHS doctor identified onset of vascular disease, specifically small vessel disease in the brain, after Mr N underwent an MRI scan. The condition can lead to the development of atherosclerosis and cardiovascular problems. Veterans UK's MAs had failed to confirm the link between Mr N's small vessel disease, his use of AEDs and atherosclerosis leading up to his death.

35. In 1997, Mr N investigated his medical service history to establish how his previous vaccinations, and exposure to ionising radiation, may have exacerbated his epilepsy and its infringement on his treatment. During this time the War Pensions Agency (**WPA**) inferred that his drug resistant epilepsy was the result of non-compliance with his medication. This meant that Mr N's extensive medical records were not obtained or reviewed.
36. She noted the comments that Mr N's death was the result of a heart attack induced by atherosclerosis, likely stemming from high blood pressure recorded in 2004 and 2007. In 2004 Mr N was in a dispute with Veterans UK and in 2007 he had three coronary stents fitted in his heart. Further, during 2007, Mr N experienced three violent seizures in the span of two days. Subsequently, Mr N was prescribed a heightened dose of AEDs. A heightened dose of AEDs can lead to an increase in seizure frequency.
37. In 2003, the WPA amended the reason for Mr N's medical discharge to epilepsy. However, this descriptor was the original reason why he was denied a WPS in 1980. This meant that the primary reason for his medical discharge was shifted away from a viral infection. This acted to deny Mrs N AFAB benefits. The onset of Mr N's atherosclerosis was attributable to the AED dosage he took for his epilepsy. However, in death, his atherosclerosis was attributable to high blood pressure and lifestyle factors.
38. It was remiss of the MA, in 2019, to say that even if Mr N was exposed to ionising radiation, it would not have had an overall effect on his health. This assertion was made without a review of Mr N's complete medical records, or without professional advice. The RAF states that all veterans have the right to access the radiation dosage they were potentially exposed to, but in Mr N's case, those records were unavailable, or they could not be found.
39. A report by a Dr C Busby surmised that 3% of external contamination on a Victor aircraft, such as the one Mr N was on, penetrated the aircraft through its ventilation system. This could potentially lead to exposure through inhalation. Based on Dr Busby's assumptions, for operation Radius 3, which was omitted from the RAF's records of the flights Mr N undertook, it is possible that the contamination levels exceeded the threshold for the Chernobyl cut off zone sixfold.
40. The AWE report of 2 January 2003 was ineffective in Mr N's case as it relied on data from an AWE employee wearing protective clothing, who did not take part in cloud sampling missions, nor did they spend any extended periods of time in a contaminated aircraft. This report also included data from a crewmember who had not entered a nuclear cloud hotspot. This report therefore could not be used to estimate the level of ionising radiation exposure that Mr N was subject to.
41. The RAF and Veterans UK seemed to hide behind the Official Secrets Act (**OSA**) to withhold information on her father's medical history. That is, information on his

exposure to ionising radiation and the vaccinations he had. Dismissing information because it was classified did not align with the principles of fairness or justice.

42. There was an oversight in the AFAB scheme appeals process in that the CDP MA was appointed and provided an opinion on Mrs N's eligibility for AFAB benefits after stage one and two of the appeals procedure were undertaken.
43. The transcribed summary of Flt Lt. W Podmore's health and physics diary ES 23/24, by the AWE subject matter expert, was incorrect. She was provided a copy of the diary and it said that, on the omitted flight Radius 3 that Mr N was present and that after the flight his flying suit, inner headset and oxygen tubes were destroyed.
44. The evidence provided in support of Mrs N's complaint was curated from certified logbooks, medical reports, and official Ministry of Defence papers. Most of the commentary provided was by the original authors of the documents presented in a bullet point format for ease of reference. The evidence provided was from a range of sources selected based on what was of relevance/significance. If the information relied upon by Veterans UK was incomplete/inaccurate, this would undermine the integrity of the decision-making process. She sought to ensure that all relevant and credible information was accepted and thoroughly examined.
45. I have carefully considered the additional information and points raised by Mrs AN but I agree with the Adjudicator's Opinion..

Ombudsman's decision

46. Firstly, of the four complaints submitted to The Pensions Ombudsman by Mrs N and Mrs AN, only one was accepted for investigation. The three complaints that were not accepted for investigation were brought more than three years after the events that gave rise to the disputes. Consequently, this means that they are out of time in accordance with regulation 5 of the Occupational Pension Schemes (Pension Ombudsman) Regulations 1996 (SI 1996 No. 2475).
47. I have every sympathy for Mrs N and Mrs AN, as the subject of Mr N's death is deeply emotive for them. As I understand it, the accepted complaint concerns Mrs N's eligibility to benefits under the AFAB Scheme. That is, Mrs N and Mrs AN have submitted that there is a causal link between Mr N's service and his death.
48. At the outset, it is important to highlight my role in this process. I am not tasked with reviewing the medical evidence and deciding whether Mrs N should in fact receive benefits under the AFAB Scheme, that decision is made by Veterans UK (as set out in paragraph 5 above) in accordance with the Rules. Rather, my role and that of my office is to look at the decision-making process followed by Veterans UK. When considering how a decision has been made by Veterans UK, I will generally look at whether:-
 - the applicable scheme rules and regulations had been correctly applied;

- the appropriate evidence had been obtained and considered; and
 - if the decision was supported by the available relevant evidence.
49. Providing Veterans UK has acted in accordance with the above principles and within the powers given to it by the Rules, I cannot overturn its decision merely because I might have come to a different decision.
50. In considering whether a decision was reached in a proper manner, there are some well-established principles which a decision-maker is expected to follow in exercising its discretion. Briefly, the decision-maker must consider and weigh all the relevant matters and no irrelevant ones. But the weight to attach to any piece of evidence is for the decision maker to decide. A decision maker could, if it wished, attach no weight at all to a piece of evidence. The only requirement is that the evidence is considered. Further, the decision maker must not reach a decision which no reasonable decision maker, properly directing itself, could arrive at in the circumstances.
51. For Mrs N to qualify for benefits under Rule C.1, Mr N's death has to be accepted by Veterans UK as attributable to or hastened by his service. Veterans UK must apply the civil burden of proof in coming to a decision; that is, a decision based on the balance of probabilities.
52. It is clear that Veterans UK has understood and acted in accordance with the criteria laid out by rule C.1 when considering Mrs N's case. That is, it understood that it needed to determine whether Mr N's death was attributable to or hastened by his service in the RAF. To do this, Veterans UK sought medical advice from the Scheme appointed MA. On appeal, advice was sought from the SMA and a CDP MA.
53. The exact cause of Mr N's death was undetermined as there was no autopsy. However, it was suspected that a heart attack/brain haemorrhage, brought on by atherosclerosis, was the primary cause of his death. Consequently, it was for Veterans UK to determine if the possible cause of Mr N's death was in any way linked to his RAF service.
54. I note that Mrs AN has argued that there is a link between Mr N's death and his service between 1969 and 1974 while stationed in Lima. She believes that after exposure to ionising radiation, "classified" vaccinations he received were rendered ineffective. This resulted in Mr N contracting an unnamed virus resulting in viral encephalitis. She submits that this is the cause of his epilepsy which, due to ineffective AED medication, resulted in the development of atherosclerosis and cardiovascular problems leading to his eventual death.
55. The MA took note of Mr N's service medical records, medical evidence from the WPS team, and Mrs AN's submissions. The MA also reviewed the synopsis on the causation of atherosclerosis (narrowing of the heart's blood vessels). Overall, the MA found that there was insufficient evidence to confirm that Mr N's death was linked to

over exposure to ionising radiation. Based on this advice, the DO did not agree that Mrs N was eligible for AFAB benefits.

56. Similarly, the SMA, added that, on the balance of probabilities, there were no service factors that could have contributed to Mr N's ischaemic heart disease, vascular dementia, shared underlying atherosclerosis and basic underlying pathology. The SMA added that atherosclerotic and cerebrovascular disease can be associated with ionising radiation. However, this was only when an individual was exposed to 500 mSv of radiation. It was estimated that over Mr N's lifetime, including his service, he would have been exposed to around 202.8 mSv.
57. The CDP MA said that much of the information provided by Mrs AN did not prove, or support, a causal link between Mr N's death and his service. The AEDs Mr N took for his epilepsy and circulatory disablements were not relevant or linked to his service. Available epidemiological studies provided little in the way of establishing a connection between ionising radiation and cardiovascular/circulatory disorders. This was due to the numerous risk factors that can result in these disorders in addition to exposure to substantial levels of radiation. See paragraph 27 above for a broader summary of the CDP MA's opinion.
58. I have considered the opinions expressed by the medical advisers, in connection with the available evidence/submissions from Mrs AN. Overall, I am satisfied that Veterans UK was in receipt of sufficient information to allow it to proceed with making a decision regarding Mrs N's eligibility for AFAB benefits in accordance with rule C.1. There is no identifiable reason as to why Veterans UK should not have accepted the advice it received from the MA, SMA or the CDP MA.
59. I have taken note of Mrs AN's inference that some of the information she submitted was not considered by Veterans UK during its decision-making process.
60. As I have said, it is for Veterans UK, within the bounds of reasonableness, to decide the weight which is attached to any of the information provided to it. Consequently, it is open to Veterans UK to prefer the opinion of its own MA/SMA as opposed to information provided by Mrs AN. That is, unless there is a cogent reason why it should or should not do so without seeking clarification. By way of example, this might include such things as an error or omission of a fact or a misunderstanding of the relevant rules by the medical advisers, neither of which, I consider, has occurred in this case.
61. The extensive and detailed information provided by Mrs AN was a useful supplement to the information already held by Veterans UK. It is clear that Veterans UK and the MA's considered this information when making its decisions/advice. The fact that not all the information provided by Mrs AN is referenced in Veteran UK's responses does not mean that it was not considered. It maybe that it was not relevant, or necessary, in helping determine a causal link between Mr N's death and his service. In any event, it is clear that Veterans UK gave the most weight, behind its decision, to the advice of the MAs.

62. Each of the MAs has made clear what evidence/case studies were considered when reviewing Mr N's case. I note that Mrs AN has said, on several occasions, that much of Mr N's medical service records is unobtainable as it is registered as classified under the OSA. Veterans UK is only able to review and act upon information that is readily available. The fact that a portion of Mr N's service record is unavailable to any party concerned is not something for which Veterans UK can be held accountable.
63. Based on the evidence available, and provided to it, Veterans UK concluded that, on the balance of probabilities, there was no link between Mr N's death and his service. I find that Veterans UK gave proper consideration to Mrs N's eligibility for AFAB benefits. It was provided with, and had access to, sufficient information to support its decision. I am satisfied that Veterans UK acted in accordance with the Rules, and also the principles outlined in paragraph 48 above.
64. There is no reason to remit the decision back to Veterans UK to reconsider.
65. I do not uphold Mrs N's complaint.

Anthony Arter CBE

Deputy Pensions Ombudsman

16 January 2024

Appendix one

List of operations undertaken by Mr N and the expected levels of ionising radiation he was exposed to

“[Mr N’s] ionising radiation exposure was monitored. In total as a result of these duties he was exposed to 2.18mSv radiation. This includes a notional conservative, assessment of 1mSv for operation 4. The contribution of the various operations were:-

1. Operation WEB 168 running from 16.01.68 to 30.07.68 – for which [Mr N] is not listed as a member of the RAF team.
2. Operation WIG 1969 running from 27.09.69 – no end date recorded. [Mr N] is listed, and activities and dose recorded on spreadsheet, 0.37mSv aggregate dose.
3. Operation Alchemist 1970 running from 30.04.70 to 17.08.70. [Mr N] is listed, and activities and dose recorded on spreadsheet, 0.11 mSv.
4. Operation Median 1970 – no dates recorded – for which [Mr N] is not listed as a member of the RAF team.
5. Operation Attune 1971 – running from 21.05.71 to 24.07.71. [Mr N] is listed, and activities and dose recorded on spreadsheet, 0.01 mSv.
6. Operation Midway 1972 no record of listing or dose recorded.
7. Operation Vellum 1974 from 9.06.74 to 23.09.74, 3 film badges were 0.15 mSv (total).

AWE have no dose records for RAF/other personnel participating in Operation 4 (above) at Midway Island in 1972. However, AWE hold records confirming [Mr N] was a crew member of the aircraft collecting air samples. Based on dose recorded for an AWE employee present for the Midway operation but did not fly, assuming a maximum period of seven days and taking him as a classified worker, AWE has assessed a conservative dose of 1mSv and a total service related dose of 2.18 mSv.”

Appendix Two

Summary of the operations Mr N was involved in, between 1969 and 1974, provided by Mrs AN.

“Op. Wig — 1969, RAF Tengah, Singapore and Anderson AFB, Guam,

Op. Alchemist — 1970, Jorge Chavez International Airport, Lima, Peru,

Op. Attune — 1971, Jorge Chavez International Airport, Lima, Peru,

Op. Radius 1 & 2 — 1971, McClellan AFB, California, USA.

Op. Radius 3 — 1972, NAS Midway, Pacific

Op. Aroma — 1973, NAS Midway, Pacific

Op. Velum — 1974, Jorge Chavez International Airport, Lima, Peru”