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# $70m question of the 'double benefit'

ARE Hongkong taxpayers unnecessarily footing an estimated $70 million bill to benefit a group of retired civil servants who were consciously given a last chance to cash in on a bureaucratic anomaly?

The Director of Audit, Mr N.B. Stalker, is adamant they are.

He believes the Government failed to end an anomaly whereby 1,565 civil servants who retired between April 1 and June 30, 1981 continued to receive a "double benefit" which in his view should have been removed by then.

A double benefit, simply put, meant a retiring civil servant got both an increase in salary on April 1 and an increase in pension on October 1.

This practice had been going on since 1976 and was scheduled to be eliminated in 1981.

However, the corrective action concerned was taken a year later because an unnamed senior officer objected to the short notice given.

In defence, the Secretary for the Civil Service said there was no delay in removing the double benefit last year, bearing in mind it had persisted since 1976 and to "allow it to remain for one final year was inevitable on staff management grounds."

The $70 million question was spotlighted in the recently released report of the Director of Audit for the year ended March 31 last year and the report of the Legislative Council's Public Accounts Committee, which was set up in 1978 to boost the Government's accountability over ways in which public money was spent or mis-spent.

In its examination of the double benefit controversy, the PAC sided with the Director of Audit on the question of delay.

But it rejected his use of the words "extra cost," "overpayment" and "error" for the payment of public funds in question.

What was the double benefit all about?

The background involved was complex.

For many years, the Government had awarded pension increases to retired civil servants, to help preserve the purchasing power of their pensions.

Before 1974, such awards were usually made concurrently with salary increases but they were ad hoc and ex-gratia with no definite criteria laid down.

A working party chaired by Mr M.D.A. Clinton (then Deputy Colonial Secretary) was set up in 1974 to work out criteria on which future increases should be assessed.

A set of criteria, recommended by the working party, was approved by the Executive Council in December 1975 for implementation from October 1, 1976.

One of the main changes introduced in 1976, based on the criteria, was the separation of pension increases from salary increases.

The reason for this, as given in an Exco memorandum, was that salary increases "are subject to several factors which are not relevant to pensions, such as comparison with pay levels in the private sector, regradings and the general level of economic activity.

"To preserve the original purchasing power of a pension, it is necessary to take into account only movements in the cost of living," the memorandum stated.

To highlight the difference between the two, July 1 was chosen as the base date for reviewing pensions each year, with October 1 of the year of review as the implementation date of any pension increase.

As a result of the decision to apply different criteria to assess pension increases and salary increases and to adopt different dates for their review and implementation, an officer retiring between April 1 and June 30 of the year of review was able to get both increases (thus the term double benefit) — that is, an increase in salary on April 1 on which his pension was based and an increase in pension on October 1.

According to the PAC, the Deputy Financial Secretary, Mr Henry Ching, said the 1974 Working Party was aware of the double benefit arising from its recommendations.

This arose from the use of July 1 as the review date for pensions, as distinct from April 1 used as the review date for salaries.

Said the PAC:

"The existence of this double benefit could be known by deduction from the arrangements, although as retirement dates were then fixed to coincide with an officer's 55th birthday, the number of officers who could benefit was limited (at a later date however the rule was altered so an officer did not have to retire on a particular date).

"The use of different review dates was partly to bring the practice in Hongkong in line with that in the United Kingdom where pension increases were payable from December 1, five months after the date of review on July 1.

"Having chosen October 1 as the date pension increases became effective, the working party was opposed to using April 1 as the review date because there would then be a large gap; and if the cost of living rose sharply the increases would become out of date before they were paid."

**by BARRY CHOI**

According to Mr Stalker, Secretariat officials themselves were soon aware of the double benefit since 1976, although the Secretary for the Civil Service considered it was an unavoidable result of separating pension increases from salary increases and any change to the arrangements would constitute a breach of the criteria approved by Exco.

"For good measure, the anomaly was also brought to the notice of the Civil Service Branch by the Director of Accounting Services and by myself and in reply to my own observations I was informed the decision to adopt different dates was made as a matter of policy.

"Consequently, officers who in the normal course happened to retire or, having knowledge of how the system operated, successfully contrived to retire in April, May or June received bigger pensions than their colleagues retiring outside this period," Mr Stalker wrote in his report.

In 1980, following complaints to the press by pensioners over certain aspects of the 1976 arrangements, the Civil Service Branch conducted a fresh review.

It was concluded in consultation with the Finance Branch the cut-off or base date for pension review and the effective date of payment, should be revised to April 1.

This revision would remove the double benefit for future awards and the three-month gap between the base date and the effective date of payment which was one of the pensioners' complaints.

But reference back to Exco was necessary because the proposal to effect payment from the same date represented a departure from the criteria approved by Exco in 1975.

There was however not enough time for the revised arrangements to be presented to Exco for introduction in 1980 and it was decided the change should take effect in 1981.

An Exco memorandum spelling out the defects under the existing arrangements and proposing the revised arrangements with effect from April 1, 1981 was submitted to the council for discussion at its meeting on November 11, 1980.

However, the memorandum was withdrawn at the last moment following an objection by a senior officer on extension of service beyond the age of 55.

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The officer argued the elimination of the double benefit would deprive officers in his position who could previously have retired between April 1 and June 30 of a benefit "to which they had a right, or at least a strong moral claim."

He represented that the proposal to eliminate the double benefit without giving prior warning to staff was objectionable.

And he pointed out that had the Government given sufficient advance notice of its intention to put the effective date of pension increases back to April 1 as from 1981, staff serving beyond the normal retirement age of 55 who had been invited by the Government to extend their service might not have agreed to do so, in which event those whose due date fell between April 1 and June 30 could have retired and enjoyed the double benefit.

A meeting between the Civil Service Branch, the Finance Branch and the Treasury followed immediately and it was concluded the officer's representation might well have some validity and needed to be carefully examined.

It was then suggested the officers concerned be allowed to retire retrospectively to get the double benefit and then be re-employed.

But this was found to be illogical and could have had other undesirable repercussions.

A series of discussions then followed within the Civil Service Branch.

In January 1981, the conclusion was reached that the double benefit should be removed.

But before this could be done, the branch thought a method would first have to be worked out to ensure its removal would not attract complaints and criticisms from staff associations and individual officers.

According to a Civil Service Branch brief which was presented as evidence to the PAC, "it so happened that around this time, the Government was finalising proposals for submission to the Executive Council to introduce new arrangements for extension of service beyond the normal retirement age of 55."

These proposals would enable officers on attaining the age of 55 to be allowed to retire and be re-employed on agreement terms and to receive their pension during the period of re-employment.

The brief stated:

"As it was proposed the new arrangements would be implemented from June 1, 1981, it was considered on staff management grounds that the revised arrangements for pension increases should be implemented on April 1, last year (instead of April 1, 1981) so as to give officers serving on extension of service prior notice of the removal of the double benefit and the final opportunity to retire, if they so wished, in 1981 and to get the double benefit."

The revised arrangements for extension of service and pension increases and their implementation dates were subsequently approved by Exco in April and June 1981 respectively.

This resulted in a total of 1,565 officers (of whom 1,158 were serving on extension) retiring in the April-May-June period in 1981, compared with an average of 352 in the corresponding period in each of the preceding five years, according to figures compiled by the Director of Audit.

The estimated cost of $70 million to the Government, Mr Stalker said, represented the amount of pension increase at 14 per cent granted to these officers in 1981 projected over 19 years.

This projection was based on the average life expectancy for males aged 55 to 58 contained in the Hongkong Life Tables published by the Census and Statistics Department.

"On an individual basis each of these officers would gain on average an extra $45,000 over those who retired in the remaining nine months of 1981-82 with a few senior officers standing to gain as much as $400,000 to $500,000," the Director of Audit said.

The Secretary for the Civil Service, then Mr H.S. Grewal acting in the absence of Mr Martin Rowlands, disagreed entirely with the Director of Audit's conclusions about delay and the resulting "extra cost" to the Government.

Mr Grewal wrote:

"We do not believe the cost was in any way 'extra' and certainly on staff management grounds it was not avoidable.

"Throughout the chain of events, all decisions have been made in strict compliance with the relevant authority approved by the Governor-in-Council, the Legislative Council or the Governor.

"The implication that there has been any improper expenditure is therefore unwarranted."

Mr Grewal also drew attention to the fact that although the Director of Audit had raised the question of double benefit in December 1976, he did not see fit to pursue it further following a reply from the Civil Service Branch in May 1977, with the result that about 1,762 officers retired from 1976 to 1980 and received the double benefit.

Mr Grewal said it was deliberately decided as an act of administrative policy to adopt the proposals and the timing as finally implemented — "on staff management grounds."

Be that as it may, Mr Stalker said:

"I find myself unable to accept the Secretary's explanation.

"I have always considered it a duty of the Government to correct without delay any error concerning the payment of public funds once it has been identified.

"The estimated cost of $70 million, resulting from prolonging the benefit for one year so as to give advance warning of its elimination and to allow officers a last opportunity to take advantage of it, has been calculated at 1981 rates and does not include any element for future pension increases."

On its part, the Public Accounts Committee said it could not help concluding that the criticism of delay was justified.

It stated:

"The working group having reported in November 1980 and the Civil Service Branch having concluded in January 1981 that the double benefit should be removed, then, given there was a decision to be taken about the revised policy on extension of service, both issues should have been considered together by the Executive Council in April 1981 so the council was in a position to take a conscious decision as to whether to eliminate the double benefit with effect from 1981 or 1982.

"As it was, the Executive Council memorandum was not resubmitted until June 1981, whereas the proposals on the extension of service were presented to the Executive Council in April 1981.

"We are also perturbed that the Executive Council was not informed of the double benefit when it was requested in December 1975 to approve the criteria for pension increases despite the fact this was already known to members of the 1974 Working Party.

"The council was therefore asked to decide over a policy without being made aware of its full implications and it is not conceivable the Executive Council would knowingly have decided in favour of a policy that would grant some officers a double benefit.

"The omission in both these instances gave rise to the financial consequences as described."

Having accepted the criticisms of delay, the PAC said it would, however, agree with the Secretary for the Civil Service's objection to the use of the words "extra cost," "overpayment" and "error" in the Director of Audit's report.

The PAC accepted the Secretary for the Civil Service's contention that nothing was paid except in accordance with the criteria approved by the Executive Council.